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A

DIGEST

OF

THE STATUTES AND ACTS

RELATING TO

MERCHANT SHIPPING IN INDIA.

BENGAL SECRETARIAT LIBRARY

BY
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BARRISTER-AT-LAW.

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PREFACE

THE Merchant Shipping Act, 1854, 17 & 18 Vic., c. 104, forms the basis of this Digest, and the sections which are marked with a number alone are the sections marked by the same number in that Act. The sections which are taken from other Acts are marked by a letter, or a figure and a letter, in addition to their number. The sections or parts of sections of 17 & 18 Vic., c. 104, which have been repealed, are set out in italics; and sections 331 to 387, 530 to 542, have been omitted as not relating to India. Wherever in the index and in the "Acts cited" Roman numeral capitals are found, the reference is to the pages of the Digest containing the definitions. Appendix A contains two sections, which it has been found necessary to add after passing the book through the press.

It was intended to have included in this Digest the rules made by the different Local Governments under the various sections of the Indian Acts referred to herein, but owing to a difficulty in collecting these rules before the end of the year 1883, it has been found impracticable to insert them in the present edition.

T. A. P

Calcutta, January 1884.

ADDENDA.

ERRATA ET CORRIGENDA.

On page 17, line 2, *for* [Merchant Shipping Act Amendment Act, 1855, 18 & 19 Vic., c. 91, s. 14], *read* [Ship Registry—Act X of 1841, s. 14.]

„ „ 93, „ 8, *for* c. 83, *read* c. 85.

„ „ 106, note 2, last line, *for* s. 51, *read* s. 55.

„ „ 234, „ 2, line 7 of note, *add* after the word "Yacht," the words and figures [Act VII of 1880, s. 3.]

„ „ 364, „ 1, „ 25 of note, after the word and figures section 25, *add* 26.

„ „ 378, „ 1, after the word and figure Section 2, *add* this Act comes into force on the first of April 1884.

„ „ 541, in column I of first entry in Schedule, and in note 1, *read for* c. 34, c. 39.

ARRANGEMENT OF SECTIONS.

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174*a*. Master and others to produce ship's papers to shipping master and give evidence.
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184a. In case of death such wages to be paid as after mentioned.
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191a. Master to have the same remedy for wages as seamen.

Relief to Seamen's Families out of Poor Rates.

192. Relief to seamen's families to be chargeable on a certain proportion of their wages.
193. Notice to be given to owner, and charge to be enforced on return of the seaman.

Wages and Effects of Deceased Seamen.

194. Masters to take charge of or sell effects of deceased seamen which are on board, and enter the same and wages due in the official log.
194a. Recovery of wages, &c., of seamen lost with their ship.
194b. Master to take charge of effects of deceased seamen.
195. Such effects and wages to be paid either to Consul or shipping master with full accounts.
195a. Effects and wages to be paid to shipping master with full accounts.
196. Penalties for not taking charge of, remitting or accounting for such monies and effects.
196a. Penalties for not taking charge of, or accounting for such monies and effects.
197. Officers of Customs and Consuls to take charge of effects left by seamen abroad, and to remit the same and their wages to Board of Trade.
197a. Extension of section 197 of Merchant Shipping Act, 1854.
198. Wages and effects of seamen dying at home to be paid in certain cases to Board of Trade.
199. If less than £50, wages and property of deceased seamen may be paid over without probate or administration to the persons entitled.
199a. Wages and property of deceased seamen may be paid without probate.
200. Mode of payment under wills made by seamen.
200a. Saving of wills of soldiers and seamen.
200b. Privileged wills.

200*c*. Execution of privileged wills.
200*d*. Revocation of privileged wills.
201. Provision of payment of just claims by creditors, and for preventing fraudulent claims.
202. Mode of dealing with unclaimed wages of deceased seamen.
202*a*. Disposal of wages or effects of deceased seamen not claimed within one year. If subsequent claim be made thereto.
203. Punishment for forgery and false representations in order to obtain wages and property of deceased seamen.
204. Effects of seamen discharged from Navy to be disposed of by Accountant General of Navy.

Leaving Seamen abroad.

205. On discharge of seamen abroad by sale of ship or otherwise, certificates of discharge to be given, and seamen to be sent home at expense of owner.
206. Forcing seamen on shore a misdemeanor.
207. No seamen to be discharged or left abroad without certificate of some functionary.
207*a*. Discharge of seamen.
208. Proof of such certificate to be upon the master.
209. Wages to be paid when seamen are left behind on ground of inability.
209*a*. Payment of wages to seamen abroad under section 209 of Principal Act.
210. Such wages to be treated as money due to the seamen, subject to the payment of expense of their subsistence and passage home.
211. Distressed seamen found abroad may be relieved and sent home at the public expense.
212. Masters of British ships compelled to take them.
212*a*. Extension of provisions concerning the relief of destitute seamen, 17 & 18 Vic., c. 104, sections 211, 212, and 213.
212*b*. Relief of distressed seamen abroad to be regulated by Board of Trade.
213. Power to sue for the amount advanced for the relief of seamen left abroad.
213*a*. Power to appoint persons to sue.
213*b*. Proceedings to be instituted in name of Secretary of State for India in Council.
213*c*. Relief of distressed seamen at Indian ports.
213*d*. Distressed seamen to be sent home on board British ship, wanting seamen to make up its crew.
213*e*. In default of such ship, on board of any ship.
213*e*. (Note). Saving of provisions of Merchant Shipping Acts, 1854 and 1855—"Local authority."
213*f*. Name and other particulars with regard to seamen to be endorsed on agreement of British ship.
213*g*. Master of British ship compelled to convey and give subsistence to such seamen.
213*h*. Penalty for refusing to do so.
213*i*. Conditions under which master may claim payment.
213*j*. Wages and expenses incurred in respect of distressed seamen to be charged on ship to which they belong in certain cases.
213*k*. Mode of recovering such wages and expenses.
213*l*. Local Government may authorise persons to recover the same. Such persons to be deemed persons filling a public office.
213*m*. Board of Trade may recover such amount from master or owner in certain cases.
213*n*. What shall be evidence of distress and expenses incurred.

213*o*. Power of Governor General in Council to make rules for relief of seamen and apprentices.
213*p*. Evidence of distress of seamen. Penalty for refusing to accept distressed seamen.

Leaving Europeans abroad.

213*q*. Liability of importers of Europeans or employers of soldiers becoming vagrants. Recovery of charges.
213*r*. Liability of consignee in case of Europeans who arrive in charge of animals and become vagrants.

Volunteering into the Navy.

214. Seamen allowed to leave their ships in order to enter the Navy.
215. Clothes to be delivered at once. Wages to be given to the Queen's officer on account of the seamen.
216. Repayment to owner of advance paid and not duly earned.
217. If new seamen are engaged instead of the original seamen, the owner may apply for repayment of any extra expense he has been put to.
218. Application how to be decided on, and amount of repayment how to be ascertained.
219. Accountant General to pay sums when ascertained.
220. Penalty for forgery and false representations in support of such applications.

Provisions, Health, and Accommodation.

221. Survey of provisions and water, on complaint made by crew.
221*a*. Survey of provisions and water, on complaint made by crew.
222. Forfeiture for frivolous complaint.
222*a*. Forfeiture for frivolous complaint.
223. Allowance for short or bad provisions.
223*a*. Allowance for short or bad provisions.
224. *Medicines, lime or lemon juice, sugar and vinegar to be provided and kept on board certain ships.*
224*a*. Medicines, &c., to be provided and kept on board certain ships.
225. Master to keep weights and measures on board.
225*a*. Master to keep weights and measures on board.
226. Board of Trade and Local Boards may appoint inspectors of medicines, who are to see that ships are properly provided.
227. *Penalty for selling bad drugs for ships.*
227*a*. Power to Governors, &c., in British possessions to make regulations as to supply of lime or lemon juice, &c.
228. Expense of medical attendance and subsistence in case of illness, and of burial in case of death, how to be defrayed.
228*a*. Expense of medical attendance and subsistence in case of illness how to be defrayed.
228*b*. Rules for medical inspection of seamen.
229. Expenses if paid by Consul to be recoverable from owner.
230. Certain ships to carry medical practitioners.
231. *Place appropriated to seamen to have a certain space for each man and to be properly constructed and kept clear.*

231*a*. Place to be appropriated to European seamen, to lascars or native seamen; place to be kept clear. Penalty if place be not properly constructed; penalty for not keeping place clear.
231*b*. Shipping master may enter on board any ship and inspect provisions, &c. Procedure if provisions are found to be bad.

Power of making Complaints.

232. Seamen to be allowed to go on shore to make complaint to a justice.
232*a*. Seamen to be allowed to go on shore to make complaint to a justice.

Health and Sanitary Regulations.

232*b*. Masters of vessels to hoist certain signals, when plague or infectious disease is on board; on default penalty of £100.
232*c*. Power to make quarantine rules.
232*d*. Quarantine rules to be deemed rules under section 271, Penal Code.
232*e*. Disobedience to a quarantine rule.
232*f*. Appointment and powers of health officer.
232*g*. Appointment of health officer of port.
232*h*. Removal of persons suffering from infectious diseases to sanitarium. Penalty.
232*i*. Removal by written order of person refusing to proceed to sanitarium.
232*j*. Magistrate on certificate of medical officer to make requisition as in section 3. Penalty.
232*k*. Master of vessel to give notice of person suffering on board from infectious disease. Penalty.
232*l*. Power to health officers to enter vessel and question master or commander Penalty.
232*m*. Master or commander may be required to remove persons suffering from infectious disease. Penalty.
232*n*. Disinfection of vessels; and recovery of expenses and penalties.
232*o*. Detention by superintendent of person brought into sanitarium until discharged.
232*p*. Power to Government to make and publish rules. Penalty.
232*q*. Power to determine what diseases are infectious.
232*r*. Power to authorise persons to exercise powers of health officer.
232*s*. Power to make special orders in special cases. Penalty.

Protection of Seamen from Imposition.

233. Sale of and charge upon wages to be invalid.
233*a*. Sale of and charge upon wages to be invalid.
234. No debt exceeding 5*s*. to be recoverable until end of voyage.
234*a*. Debt exceeding Rs. 3 when recoverable.
235. Penalty for overcharges by lodging-house-keepers.
235*a*. Penalty for overcharges by lodging-house-keepers.
236. Penalty for detaining seamen's effects.
236*a*. Penalty for detaining seamen's effects.
237. Person not to go on board before the final arrival of ship without permission.
237*a*. Persons not to go on board before the final arrival of ship without permission.
237*b*. Penalty for being on board ship, without permission, before seamen leave.
237*c*. Provision contained in section 5 to apply to ships belonging to foreign countries in certain cases.
238. Penalty for solicitations by lodging-house-keepers.
238*a*. Penalty for solicitations by lodging-house-keepers.

Discipline.

239. Misconduct endangering ship or life or limb a misdemeanor.
239*a*. Penalty for misconduct endangering ship or life or limb.
240. Power of Admiralty Courts to remove master.
240*a*. Admiralty Court in India may in certain cases remove master and appoint a new master.
240*b*. Saving and provision as to powers for removal of master.
241. Power to investigate cases of alleged incompetency and misconduct.
241*a*. Power of Board of Trade and local marine board to investigate conduct of certificated engineers.
241*b*. Colonial Courts or tribunals to have jurisdiction to make inquiries into charges of misconduct or incompetency, and shipping casualties in certain cases occurring outside the limits of the Colony.
241*c*. Colonial legislative authorities empowered to authorise enquiries into shipping casualties and charges of misconduct and incompetency in certain cases.
242. Board of Trade may cancel or suspend certificates.
242*a*. Repeal of part of case V in section 242, Merchant Shipping Act, 1854.
242*b*. Rules as to cancelling and suspending certificates.
242*c*. Certificate to be delivered up.
242*d*. Suspension or cancellation of certificates.
242*e*. Appeal from Colonial Courts.
243. Offences of seamen and apprentices and their punishments. Desertion. Neglecting or refusing to join or to proceed to sea. Absence within twenty-four hours before sailing and absence without leave. Quitting without leave before ship is secured. Act of disobedience. Continued disobedience. Assault on officers. Combining to disobey. Wilful damage and embezzlement. Act of smuggling, causing loss to owner.
243*a*. Offences of seamen and apprentices and their punishments. Desertion. Neglecting or refusing to join or to proceed to sea. Absence within twenty-four hours before sailing and absence without leave. Quitting without leave before ship is secured. Act of disobedience. Continued disobedience. Assault on officers. Combining to disobey. Wilful damage and embezzlement. Act of smuggling, causing loss to owner.
243*b*. Survey of ships alleged by seamen to be unseaworthy.
243*c*. Power to Naval Courts to direct survey of ships.
244. Entry of offences to be made in official log and to be read over, or a copy given to the offender, and his reply, if any, to be also entered.
244*a*. Entry of offences to be made in official log, and to be read over, or a copy given to the offender, and his reply, if any, to be also entered.
245. Seamen whom masters of ships are compelled to convey, and persons going in ships without leave, to be subject to penalties for breach of discipline.
245*a*. Seamen whom masters of ships are compelled to convey, and persons going in ships without leave, to be subject to penalties for breach of discipline.

Deserters and Desertion.

246. *Master or owner may apprehend deserters without warrant.*
246*a*. Master or owner may apprehend deserters without warrant.
246*b*. Deserters.
247. Deserters may be sent on board in lieu of being imprisoned.
247*a*. Deserters may be sent on board in lieu of being imprisoned.
247*b*. Desertion and absence without leave.

248. *Seamen imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.*
248*a*. Seamen imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.
248*b*. Power to deal with imprisoned seamen in accordance with section 88 of Act I of 1859.
248*c*. Rules as to imprisoned seamen.
249. Entries and certificates of desertion abroad to be copied, sent home, and admitted in evidence.
249*a*. Entries and certificates of desertion abroad to be copied, sent home, and admitted in evidence.
250. Facilities for proving desertion so far as concerns forfeiture of wages.
250*a*. Facilities for proving desertion so far as concerns forfeiture of wages.
251. Costs of procuring imprisonment may to the extent of £3 be deducted from wages.
251*a*. Costs of procuring imprisonment may to the extent of Rs. 30 be deducted from wages.
252. Amount of forfeiture how to be ascertained when seamen contract for the voyage.
252*a*. Amount of forfeiture how to be ascertained when seamen contract for the voyage.
253. Application of forfeitures.
253*a*. Application of forfeitures.
254. Questions of forfeiture may be decided in suits for wages.
254*a*. Questions of forfeiture may be decided in suits for wages.
255. Penalty for false statement as to last ship or name.
255*a*. Penalty for false statement as to last ship or name.
256. Fines to be deducted from wages and paid to shipping master.
256*a*. Fines to be deducted from wages and paid to shipping master.

Penalties regarding Desertion.

257. Penalties for enticing to desert and harbouring deserters.
257*a*. Penalties for enticing to desert and harbouring deserters.
257*b*. Penalty for concealing deserter.
257*c*. Deserters from Portuguese vessels in ports in Her Majesty's dominions in India to be apprehended on application of Portuguese Consul, and conveyed back to the vessel or delivered to the master. Penalty for protecting deserters. Penalty to be recovered under 7 & 8 Vic., c. 112.
257*d*. The operation of this Act in any Colony may be suspended, while any enactment of the Colonial Legislature carrying out the objects of this Act is in force.
257*e*. Penalty on master in certain cases, if a deserter is concealed on board his ship. Proviso. Charge may be in the alternative.
257*f*. Jurisdiction under European Deserters Act.
257*g*. Commanding officer or magistrate may issue warrant for apprehension of deserters and search ships.
257*h*. Penalty for harbouring or concealing deserters from merchant vessels.
257*i*. Penalty for harbouring or concealing deserters from merchant vessels.
257*j*. Foreign deserters.
257*k*. Foreign deserters from foreign ships may be apprehended and given up.
257*l*. Justices shall aid in apprehending deserters.
257*m*. Penalty on persons harbouring deserters.
258. Penalty for obtaining passage surreptitiously.
258*a*. Penalty for obtaining passage surreptitiously.

259. On change of masters, documents hereby required to be handed over to successor.
259a. On change of masters, documents hereby required to be handed over to successor.

Discipline relating to Convoys and Foreigners.

259b. Punishment of masters of merchant vessels under convoy disobeying orders or deserting convoy.
259c. Penalty for not taking care of and defending ships under convoy or for exacting reward from merchants or masters or ill-treating masters or mariners.
259d. Master of merchant vessel to obey orders of convoying officer.
259e. Foreigners, being masters of vessels or employed therein, when to report.
259e (Note). Foreigner to report arrival in India in certain cases. What to be stated in the report.
259f. Certain officers may board vessels to ascertain whether foreigners are on board. Master of vessel to furnish list of passengers, and to give information respecting them. Foreigner refusing to give account of himself how to be dealt with.
259g. Penalty for false answer or report.
259h. Penalty for master not complying with requisitions of Foreigners Act.

Regulations regarding Mails,—Enlistment—Ship-building—and Convicts.

259i. Commanders of inward-bound vessels carrying mails how to proceed on arrival. Penalty.
259j. Penalties for detention of letters on board inward-bound vessels.
259k. Bounty money. Limitation of claim thereto. Saving of letters conveyed on mail ships.
259l. Commanders of outward-bound vessels to receive mails on board.
259m. Persons expressly forbidden to collect, carry, or deliver letters.
259n. Penalty for breach of provision of s. 6 (259m).
259o. Penalty on embarking persons under false representations as to service.
259p. Penalty on taking illegally enlisted persons on board ship.
259q. Penalty on illegal ship-building and illegal expeditions.
259r. Presumption as to evidence in case of illegal ship.
259s. Penalty on ship master bringing European convicts to India. Power to exempt certain shipmasters.

Naval Courts on the High Seas and abroad.

260. Naval Courts may be summoned for hearing complaints and investigating wrecks on the high seas or abroad.
261. Constitution of such Courts.
262. General functions and mode of action of such Courts.
263. Powers of such Courts to supersede master; to discharge a seaman; to forfeit wages; to decide disputes as to wages, &c.; to direct costs of imprisonment to be paid out of wages; to send home offenders for trial; to order payment of costs, &c.
264. Orders to be entered in official log.
265. Report to be made of proceedings of Naval Courts.
266. Penalty for preventing complaint or obstructing investigation.
266a. Additional powers of Naval Court (*see Appendix A*).

Crimes committed on the High Seas.

267. Offences committed by British seamen at foreign ports to be considered within Admiralty Jurisdiction.
267*a*. Certain offenders on high seas punished as though offence committed in India.
268. Conveyance of offenders and witnesses to United Kingdom or some British possession.
269. Inquiry into cause of death on board.
269*a*. Legislatures of possessions abroad may legislate for trial, &c., of offences committed in such possessions, where persons injured die out of the limits thereof.
269*b*. Jurisdiction as to crimes committed at sea.
269*c*. Explanation of s. 16 of 33 & 34 Vic., c. 52.
270. Deposition to be received in evidence when witness cannot be produced.
270*a*. Depositions to be received in evidence when witness cannot be produced. Proviso.

Registration of Returns respecting Seamen.

271. Establishment of Register Office.
272. Register of seamen to be kept.
273. List to be made for all ships containing certain particulars.
273*a*. Confirmation of marriages of British subjects solemnized on board Her Majesty's ships.
274. Lists for foreign-going ships to be delivered to shipping master on arrival.
274*a*. Registration of births and deaths at sea.
275. Lists to be delivered by home-trade ships half-yearly.
276. Lists to be sent home in case of transfer of ship and in case of loss.
277. Shipping masters and other officers to transmit documents to registrar. Registrar to permit inspection, to produce originals and give copies.
278. Officers of Customs to make returns of ships to registrar.
279. Agreements, indentures, assignments, on arrival at foreign port to be deposited with the Consul, and at a Colony with the officers of Customs.

Official Logs.

280. Official logs to be kept in forms sanctioned by the Board of Trade.
280*a*. Official logs to be kept in forms sanctioned by Local Government.
281. Entries to be made in due time.
281*a*. Entries to be made in due time.
282. Entries required in official log—Convictions. Offences. Punishments. Conduct of crew. Illnesses and injuries. [*Deaths. Births.*] Marriages. Quitting ships. Wages of men entering Navy. Wages of deceased seamen. Sale of deceased men's effects. Collisions.
282*a*. Entries required in official log—Convictions. Offences. Punishments. Conduct of crew. Illness and injury. Deaths. Births. Marriages. Quitting ships. Wages of men entering Navy. Wages of deceased seamen. Sale of deceased seamen's effects. Collisions.
283. Entries how to be signed.
283*a*. Entries how to be signed.
284. Penalties in respect of official logs.
284*a*. Penalties in respect of official logs.
285. Entries in official logs to be received in evidence.
285*a*. Entries in official logs to be received in evidence.

286. Official logs to be delivered to shipping master.
286a. Official logs to be delivered to shipping master on ship's arrival at port of destination in India.
287. Official logs to be sent home in case of transfer of ship, and in case of loss.
287a. Official logs to be transmitted to shipping master in case of transfer of ship and in case of loss.

East Indies and Colonies.

288. Provisions of third part of Merchant Shipping Act, 1854, as applied by East Indian and Colonial Governments to their own ships, may be enforced throughout the empire.
289. East Indian and Colonial Acts to be subject to disallowance, and require sanction as in other cases.
290. Conflict of laws.

Naval Reserve.

290a. Her Majesty may accept offers of persons recommended by the Admiralty to serve as officers of the Royal Naval Reserve.

PART IV.

Safety and Prevention of Accidents.

Application.

291. Application of Part IV of Merchant Shipping Act, 1854.
291a. Foreign ships in British jurisdiction to be subject to regulations in table (C) in Schedule, &c.
291b. Regulations, when adopted by a foreign country, may be applied to its ships on the high seas.

Unseaworthy and Unsafe Ships.

291c. Interpretation clause. "British Indian ship." "British ship." "Manner described." "Unseaworthy." "Unsafe."
291e (Note). Non-application of Chapter II of Act VII of 1880 to certain vessels.
291d. Sending unseaworthy ship to sea a misdemeanor.
291e. Every person sending unseaworthy ship to sea liable to penalty. Master taking unseaworthy ship to sea liable to penalty. Prosecution to be by or with consent of Local Government.
291f. Obligation of ship-owner to crew with respect to use of reasonable efforts to secure seaworthiness.
291g. Obligation of owner to crew with respect to unseaworthiness. Proviso.
291h. Power to detain unsafe ships, and procedure for such detention.
291i. Provisional detention by Local Government. Service of grounds on master.
291j. Power to appoint surveyor. Action on receipt of his report. Order of final detention. Service of report on master and appeal to Court of Survey.
291k. Option to owner or master of appointing assessor to accompany surveyor. Procedure when surveyor and assessor agree. Where they differ.
291l. Power to refer to a Court of Survey.
291m. Release of ship at any time by Local Government.
291n. Detaining officers: their powers generally.

291*o*. Their power to order provisional detention and survey: detaining officer to report to Local Government.
291*p*. Enforcing detention of ship.
291*q*. Who may enforce detention of ship.
291*r*. Penalty for proceeding to sea after detention.
291*s*. Penalty for carrying to sea officer in execution of his duty.
291*t*. Supplemental provisions as to detention of ship.
291*u*. Detained ship not to be released because British registry is closed.
291*v*. Powers of persons authorised to survey ships.
291*w*. Service of order on master, &c.
291*x*. Service of order where there is no master or resident owner.
291*y*. Order how to be served.

Courts of Survey for Appeals.

291*z*. Constitution of Court of Survey for appeals.
291 (*1a*). Constitution of Court of Survey.
291 (*1b*). The judge.
291 (*1c*). The assessors.
291 (*1d*). Judges to summon assessors.
291 (*1e*). Power and procedure of Court of Survey.
291 (*1f*). Case to be heard in open Court.
291 (*1g*). Powers of judge and assessors.
291 (*1h*). Judge may appoint surveyor.
291 (*1i*). Owner or master may attend at survey.
291 (*1j*). Power of judge to detain or release ship.
291 (*1k*). Report to Local Government by judge.
291 (*1l*). Rules for procedure of Court of Survey, &c.
291 (*1m*). Power of Local Government to make rules with respect to Court of Survey.

Cost of Detention and Damages incidental thereto.

291 (*1n*). Liability of Board of Trade and ship-owner for costs and damages.
291 (*1o*). Liability of Government for costs and damages when ship wrongly detained.
291 (*1p*). Liability of ship-owner for costs when ship rightly detained.
291 (*1q*). What included in costs of detention and survey.
291 (*1r*). Power to require from complainant security for costs.
291 (*1s*). Power to require from complainant security for costs. Proviso as to complaint by one-fourth of crew.
291 (*1t*). Costs payable by Government recoverable from complainant.

Scientific Referees.

291 (*1u*). References in difficult cases to scientific persons.
291 (*1v*). Power to appoint referee to hear appeal.
291 (*1w*). Option to appellant to require referee to be appointed.
291 (*1x*). Referee to have powers of Court of Survey.
291 (*1y*). Certain persons to be deemed public servants.

Foreign Ships overloading.

291 (*1z*). Application to foreign ships of provisions as to detention.
291 (*2a*). Fees, salaries, and costs.

Boats for Sea-going Ships.

292. Rules as to boats and life-buoys—Table S.
293. Penalties on masters and owners, &c., neglecting to provide boats and life-buoys.
293*a*. Power for Board of Trade to vary requirements as to boats.
294. Officers of Customs not to clear ships not complying with the above provisions.
294*a*. Sections of Merchant Shipping Act, 1854, applied to steam-vessels proceeding to sea from ports in Bombay.

Lights and Fog Signals and Meeting and Passing.

295. *Regulations as to lights and fog signals.*
296. *Rule as to ships meeting each other.*
297. *Rule for steamers in narrow channels.*
298. *If collision ensues from breach of above rules, owner not to be entitled to recover.*
299. *Breaches of such rules to imply wilful default.*

Safety, and Regulations for preventing of Collisions.

299*a*. Regulations concerning lights and fog signals, and sailing rules, in Schedule, table (C), &c.
299*b*. Regulations to be published. Evidence of regulations.
299*c*. Owners and masters bound to obey them.
299*d*. Damage from breaches of regulations to be deemed caused by wilful default of person in charge.
299*e*. Duties of masters in case of collision.
299*f*. Liability for infringement of regulations in cases of collision.
299*g*. Proceedings for enforcing regulations.
299*h*. Rules for harbours under local Acts to continue in force.
299*i*. In harbours and rivers where no such rules exist they may be made.

Inspection of Ships with regard to Lights and Fog Signals.

299*j*. Appointment of inspector of lights and fog signals.
299*k*. Notice of deficiency to be given to master or owner by such inspectors.
299*l*. Ship not to be cleared by Customs collector till inspector certifies it is properly provided with lights, &c.
299*m*. Saving clause as to certain ships.
299*n*. Exhibition of a false light, mark, or buoy.
299*o*. Rash navigation of a vessel.

Build and Equipment of Steam-ships.

300. *Iron steamers to be divided by water-tight partitions. Officers of Customs not to grant certificates except so divided.*
301. Equipment of steam-ships; safety valve; compasses to be adjusted; fire hose; signals; shelter for deck passengers.
301*a*. Provision for signals of distress, inextinguishable lights, and life-buoys in passenger steamers and emigrant ships.
302. Penalty for improper weight on safety valve.

Deck and Load-lines.

302*a*. Marking of deckl-ines.
302*b*. Marking of load-line on foreign-going British ships.

302*c*. Marking of deck-lines.
302*d*. Marking of load-line.
302*e*. Statement in application to Customs officer for entry outwards.
302*f*. Copy of statement to be entered in agreement with the crew and in the log book.
302*g*. Ship to be kept marked.
302*h*. Penalty for neglecting to mark or submerging load-line.
302*i*. Penalty on master for having misleading marks.
302*j*. Saving of ships marked in the United Kingdom.
302*k*. Delegation of powers to Port Commissioners, &c.

Equipment of Vessels in Port.

302*l*. Vessels above 200 tons to be provided with force pumps.
302*m*. Penalty for not having sufficient crew on vessels lying in port.
302*n*. Power to exempt from maintaining crew on particular ships.
302*o*. Power to revoke exemption.
302*p*. Power to make order with respect to portions of port.
302*q*. Application of section 2 of Ben: Act III of 1837 to certain ships.
302*r*. Recovery of penalties.
302*s*. Penalties how disposed of.
302*t*. Exemption of arms, &c. on board ship from duty under Arms Act.

Survey of Passenger Steamers.

303. Definition of "passengers" and "passenger steamer."
304. *Passenger steamer to be surveyed.*
304*a*. Passenger steamers to be surveyed once in every year according to 17 & 18 Vic., c. 104.
304*b*. Steam-vessels to be surveyed.
304*c*. Certain steam-vessels liable to be surveyed twice a year.
304*d*. Certain steam-vessels liable to be surveyed twice a year.

Ship Surveyors.

305. Board of Trade to appoint surveyors and fix their remuneration.
305*a*. Local Government to appoint examiners, and to make rules as to qualification of ship surveyors. Publication of rules.
305*b*. No person to practise as ship surveyor unless qualified. Surveyors of Lloyd's and Veritas.
305*c*. Penalty for practising as ship surveyor without certificate.
305*d*. Government to appoint one or more surveyors.
305*e*. Government to appoint one or more surveyors.
305*f*. Government to appoint surveyors.
305*g*. Governors abroad may appoint surveyors.
305*h*. Power to appoint ports of survey.
305*i*. Power to appoint ports of survey.
306. Surveyors to have power to inspect.
306*a*. Duties of surveyors.
306*b*. Authority to surveyors to board steamers for purpose of surveying. Penalty for hindering surveyor or withholding information.
306*c*. Authority to surveyors to board steamers for purpose of surveying. Penalty for hindering them in making survey or withholding information.

306*d*. Surveyors to board steamers for purpose of surveying.
306*e*. Hindering survey or withholding required information.
306*f*. Duty of surveyor on boarding steam-vessel. Penalty for refusal to answer questions.
306*g*. Certificate of exemption from survey to be delivered by surveyor.
306*h*. Penalty for receiving passengers on vessel not intended to carry them.
306*i*. Power to order special survey of British steamer in survey port.
306*j*. Power to order special survey of British steamer in harbour of Bombay.
306*k*. Special survey may be ordered by Government on any British steamer.
307. Board of Trade to regulate mode of making surveys.
307*a*. Government may make rules as to mode and time of conducting survey. Rule under this section.
307*b*. Power to make rules as to mode and time of conducting survey.
307*c*. Power to make rules as to mode and time of conducting survey.
308. Penalty on surveyors receiving fees unlawfully.
308*a*. Penalty for surveyors receiving unauthorised fee.
308*b*. Penalty for surveyor receiving fees, &c., not provided by Act.
308*c*. Receiving unlawful fees for making survey.
308*d*. Penalty on surveyor, &c., receiving gratuity, &c., for duties performed under this Act.
309. Owners to have surveys made by shipwright and engineer surveyors, and surveyors to give declarations.
309*a*. Declaration of engineer surveyor to contain statement concerning engineers' certificates.
309*b*. Grant of certificate and declaration.
309*c*. Grant by surveyors of certificate and declaration.
309*d*. Surveyors when to grant certificate and declaration.
310. Transmission of declarations to Board of Trade. Penalty for delay.
311. Times appointed for surveys and transmission of declarations.
311*a*. Survey of steamers.
312. Board of Trade to issue certificate.
312*a*. Provision as to survey of foreign passenger steamer or emigrant ship.
312*b*. Colonial certificates for passenger steamers.
312*c*. Provision against double survey in case of passenger and emigrant ship.

Appeal on Refusal of certain Certificates to Ships.

312*d*. Appeal on refusal of certain certificates under Merchant Shipping and Passengers Act.
313. Issue and transmission of certificates.

Fees payable for Survey.

314. Fees to be paid for certificates.
314*a*. Fees in respect of survey, &c.
314*b*. Fees for survey.
314*c*. Fee for survey.
314*d*. Power to impose additional fees.
314*e*. Fees for survey.
314*f*. Increase of fees.
314*g*. Power to impose additional fees.

Duration of Certificates.

315. How long certificates to continue in force.
315*a*. Duration of certificates. Proviso as to absent vessel when certificate expires. Delivery of expired or revoked certificate.
315*b*. Duration of certificate. Proviso as to absence when certificate expires. Power to require surrender of expired certificates.
315*c*. Certificates to be in force only six months. Provision for vessels absent when certificate expires. Power to require delivery of expired certificates.
315*d*. Refusal to comply with section 15, (315*c*).

Revocation of Certificates.

316. Board of Trade may cancel certificates and require fresh declarations.
316*a*. Power to cancel certificate and declaration. Power to require re-survey.
316*b*. Power to revoke and cancel certificates and declaration. Power to require re-survey.
316*c*. Power to cancel certificate and declaration. Power to order re-survey.
317. Copy of certificate to be placed in conspicuous part of ship.
317*a*. Certificates to be hung up in conspicuous part of vessel.
317*b*. Certificates to be hung up in conspicuous part of vessel.
317*c*. Certificates to be hung up in vessel.
317*d*. Neglect to hang up certificate and declaration.

No voyage to be taken without Certificate: Penalty.

318. Ship not to proceed on her voyage without certificate.
318*a*. No clearance to steamer for voyage for which she has not got surveyor's certificate.
318*b*. Master or officer who is a licensed pilot attempting to take ship out without certificate liable to lose license.
318*c*. No clearance to steamer for voyage for which she has no certificate. Penalty for leaving port without a certificate.
318*d*. Master or officer being licensed pilot attempting to take ship out of port without certificate liable to lose license.
318*e*. No clearance to be given to steamer for voyage for which she has not got a certificate.
318*f*. Leaving without certificate and declaration.
318*g*. Master or officer who is a licensed pilot attempting to take ship out of port without certificate.
319. Penalty for carrying passengers in excess of number specified in certificate.

Exemption of certain Steamers from Certificate.

319*a*. Exemption of certain steamers from passenger certificates.
319*b*. Power to exempt steam-vessels.
320. Forgery of declaration or certificate a misdemeanor.
321. Surveyors to make returns of the build and other particulars of steam-ships, and owners and masters to give information for that purpose.

Second Survey on refusal to grant Certificate.

321*a*. When Government may order second survey by other surveyors.
321*b*. If correctness of survey doubted, Government may order second survey by other surveyors.
321*c*. Power to order a second survey.

Investigation of causes of Explosions, or direction of Special Survey.

321*d*. Power to investigate cause of explosions.
321*e*. Power to investigate cause of explosions, or direct special survey.
321*f*. Order on receipt of report of investigation or survey.
321*g*. Expenses of investigation of survey by whom paid.
321*h*. Power to investigate causes of explosion.

Recovery of Fines and Fees.

321*i*. Offences by whom tried. Penalties and fees how recovered.
321*j*. Offences under Act XVI of 1871 by whom tried. Fees how recoverable.
321*k*. Offences under Act by whom tried. Penalties and fees how recovered.
321*l*. Local Government may delegate powers to survey steamers.

Misconduct by Passengers in Steamers.

322. *Penalties on persons forcing way on board, or refusing to quit the ship.*
323. *Penalties for avoiding payment of fares.*
323*a*. Penalties on drunken or disorderly passengers; on persons molesting passengers; on persons forcing their way on board the ship when full; on persons refusing to quit the ship when full; or endeavouring to avoid payment of fares.
323*b*. Penalty for injuring steamer or molesting crew.
323*c*. Detention and trial of offenders.
324. Penalty on persons refusing to give their names and address.
325. Power to refuse or remove passengers who are drunk or misconduct themselves.

ACCIDENTS.

Report to be made of Accidents.

326. Accidents to steam-ships to be reported to Board of Trade.
326*a*. Report of casualties to be made to Local Government.
326*b*. Notice of accidents to be given to Local Government.
327. *Notice to be given of apprehended loss of steam-ship.*
327*a*. Notice to be given of apprehended loss of ship.
328. Collisions to be entered in official log.

Prevention of Accidents in Ports and Preservation of Ports.

328*a*. Local Government empowered to make port rules as to entering or leaving ports; berths of vessels; striking yards; removal of anchors; taking in or discharging ballast; keeping free passage, regulating the anchoring, moving and warping; use of mooring buoys; rates for use of moorings and buoys; cargo boats; fires and lights; signal-lights; number of crew; possession of gunpowder.
328*b*. Power to Madras Local Government to make additional Port Rules. Proviso.
328*c*. Power to make Port Rules.
328*d*. Power to extend and withdraw Act XII of 1875, and certain specific sections of the Indian Ports Act.

Rules for Safety of Shipping and Preservation of Ports.

328*e*. Injuring buoys.
328*f*. Wilfully loosening vessel from moorings.

328*g*. Improperly discharging ballast.
328*h*. Application of sections 11 and 12 (328 (*1h*) and 328*g*).
328*i*. Graving, &c., vessels within prohibited limits.
328*j*. Boiling pitch, &c., on board vessels within prohibited limits.
328*k*. Drawing spirits by unprotected artificial lights.
328*l*. Warping.
328*m*. Leaving out hawser, &c., after sunset.

Regulations as to Gunpowder.

328*n*. Place of deposit of gunpowder.
328*o*. Government to fix time and manner of landing and shipping powder, &c.
328*p*. Master to make declaration as to quantity of gunpowder on board.
328*q*. Officer to give receipt and to account for powder deposited.
328*r*. If by stress of weather powder is not landed, notice to be given.
328*s*. Time for vessels outward bound to take in powder.
328*t*. Penalties for having prohibited powder on board.
328*u*. Guns not to be discharged in port. Exception. Penalty.
328*v*. Penalty on master omitting to take order to extinguish fire.

Regulations as to Petroleum.

328*w*. Dangerous petroleum in quantities exceeding 40 gallons. Application for license to import, transport, or possess such petroleum. Power to grant licenses.
328*x*. Transportation of dangerous petroleum in quantities not exceeding 40 gallons.
328*y*. Vessels containing dangerous petroleum to be marked.

Petroleum generally.

328*z*. Power to make rules as to the importation of petroleum. "Ship." "Master."
328 (*1a*). Rules when to have force of law.
328 (*1b*). Penalty for illegal importation of petroleum.
328 (*1c*). Jurisdiction as to offences under Petroleum Act.

Special Rules for Safety of Shipping.

328 (*1d*). Vessels in certain cases not to be moved without having a pilot, or permission of harbour master. Proviso as to native vessels in Bombay harbour.

Port Officers; their Powers and Duties.

328 (*1e*). Appointment of conservators.
328 (*1f*). Conservators empowered to give directions for certain specified purposes. Penalty for disobedience to conservators' orders. Expenses caused thereby to be paid by offender. Service of written notice.
328 (*1g*). Power to cut warps, ropes, &c.
328 (*1h*). Power to remove floating timber, &c., or obstruction on shore within limits of port. Expenses of removal. Penalties for causing obstructions or public nuisance.
328 (*1i*). Recovery of expenses of removal. Power to sell timber. Proceeds how dealt with.

328 (*1j*). Removal of obstructions lawfully made. Compensation how determined.
328 (*1k*). Notice to conservator if vessel fouls. Expense of clearing vessel. Penalty.
328 (*1l*). Power to raise wreck, &c., impeding navigation within the port. Expenses how recoverable.
328 (*1m*). Power to board vessels. Penalty on hinderance.
328 (*1n*). Power to require crews to prevent or extinguish fire.
328 (*1o*). Powers of conservators may be exercised by harbour master.
328 (*1p*). Indemnity to Government against default of harbour master. Proviso.
328 (*1q*). Unauthorised person not to search for lost stores.
328 (*1r*). Removing stores, &c., or injuring stores of port prohibited.

Power to Remove or Destroy Obstructions in Fairways.

328 (*1s*). Local Government empowered to remove or destroy obstruction in fairway.
328 (*1t*). Government entitled to expenses incurred in removing obstruction. Dispute concerning such expenses.
328 (*1u*). Notice of removal to be given by Local Government.
328 (*1v*). Things removed may, in certain cases, be sold.
328 (1*w*). Proceeds how applied.
328 (1*x*). Interpretation of word "vessel" in Fairways Act.
328 (1*y*). Power to make rules to regulate and prohibit the placing of obstructions in fairways.
328 (1*z*). Penalty for breach of such rules.
328 (*2a*). Compensation payable in certain cases for damages caused under this Act.
328 (*2b*). Certain action of the Government previous to the passing of the Act to be deemed to have been taken hereunder.
328 (*2c*). Saving of other powers.

Power of Port Commissioners to raise Wrecks.

328 (*2d*). Commissioners may raise wrecks and charge reasonable expenses.
328 (*2d*) (Note). } Limits of the Port of Calcutta how defined under Ben. Act V of 1870.
328 (*2e*). Sale of property, if unclaimed, or if expenses unpaid.

Prevention of Damage to Piers, Jetties, and Wharves.

328 (*2f*). Vessels fouling pier.
328 (*2g*). Penalty for non-payment of fines.
328 (*2h*). Recovery of damages for injury to pier by drift.
328 (*2i*). Sale of drift and disposal of sale-proceeds.
328 (*2j*). Procedure in case of drift owned by several persons.
328 (*2k*). Liability of owners of unsold part of drift to pay to owner of part sold.
328 (*2l*). Magistrate's certificate as to amount payable by and to such owner of drift.
328 (*2m*). Compensation for damage to property of Commissioners.
328 (*2n*). Compensation for damage to property of Commissioners.

Port Dues and Charges.

328 (*2o*). Port-dues on vessels entering ports—Schedule I to Act XII of 1875.
328 (*2o*) (Note). } Amendment of Part III of first Schedule of Act XII of 1875.
328 (*2p*). Commencement of Madras Harbour Dues Act of 1881.

328 (*2p*) (Note). } Extent of Act XII of 1875. Power to extend the Act.
328 (*2q*). Port-dues may be made payable to Commissioners.
328 *2q* (Note). } Power to make Commissioners conservators of ports.
328 (*2r*). Local Government may vary port-dues. Proviso.
328 (*2s*). Conservator may in certain cases ascertain draught and charge expense to master.
328 (*2t*). Collection of port-dues. Voucher to be given.
328 (*2u*). Master to report arrival.
328 (*2v*). On refusal to pay port-dues, &c., collector may distrain and sell.
328 (*2w*). No port-clearance to be granted until dues are paid.
328 (*2x*). Port-dues, &c., payable in one port recoverable by collector at any other port.
328 (*2y*). Penalty for evading payment of port-dues.
328 (*2z*). Port-dues on vessels in ballast.
328 (*3a*). Port-dues on vessels not discharging or taking in cargo.
328 (*3b*). Port-dues not chargeable on vessels re-entering from stress of weather.
328 (*3c*). Port dues not chargeable on yachts.
328 (*3d*). Power to impose police port-dues.
328 (*3e*). Power to impose hospital port-dues.
328 (*3f*). Application of hospital port-dues.
328 (*3g*). Power to compound port-dues.
328 (*3h*). Power to vary port dues.
328 (*3i*). Imposition of port dues to be published in Gazette.
328 (*3j*). Application of Maulmain and Bassein port-dues.

Wharves, Jetties, and Tolls therefor.

328 (*3k*). Power to compel ships to load and unload at wharves, &c., of Commissioners.
328 (*3l*). When sufficient accommodation, all vessels to load and unload at Commissioners' wharves.
328 (*3m*). Inland vessels to load and unload at places provided for them.
328 (*3m*) (Note). } Lieutenant-Governor empowered to make bye-laws.
328 (*3n*). Appliances for shipping, &c., for sea-going vessels.
328 (*3o*). Sea-going vessels compelled to use wharves.
328 (*3p*). If accommodation sufficient, all sea-going vessels compelled to use wharves.
328 (*3q*). Inland vessels compelled to use wharves.
328 (*3r*). Power to require vessels to remove from wharves.
328 (*3s*). Power to order removal of vessels from wharves, &c.
328 (*3t*). Power to exempt from obligation to use wharves.
328 (*3t*) (Note). } Power to define and alter limits of port of Rangoon.
328 (*3u*). Discharge of liability on goods landed.
328 (*3v*). Scale of tolls and charges to be framed.
328 (*3w*). Tolls to be levied.
328 (*3x*). Governor in Council to fix fees to be levied in ports at Karachi.
328 (*3y*). Levy of harbour dues on goods in Madras. Payment of such dues.
328 (*3z*). Power to make rules for Madras Harbour.
328 (*4a*). Power to distrain vessels for non-payment of tolls.
328 (*4b*). Recovery of tolls and charges by distraint of vessel.
328 (*4c*). Port-clearance not to be granted till tolls are paid.
328 (*4d*). Port-clearance not to be granted till tolls are paid.

328 (*4e*). Recovery of tolls in arrear.
328 (*4f*). Commissioner's lien for tolls and charges.
328 (*4g*). Owner's lien for freight.
328 (*4h*). Lien for freight preserved after landing of goods, if notice of lien be given.
328 (*4i*). Lien for freight preserved after landing, if notice given.
328 (*4j*). Discharge of lien by payment or release.
328 (*4k*). Discharge of lien by payment or release.
328 (*4l*). If rates not paid or lien for freight not discharged, goods may be sold after two months.
328 (*4m*). If tolls not paid or lien for freight not discharged, goods may be sold after expiration of two months.
328 (*4n*). Recovery of tolls and charges by sale of goods.
328 (*4o*). Power to detain goods until dues are paid.
328 (*4o*) (Note). Appointment of officers to levy dues. Penalty for levying extra dues. Penalty for removal of certain goods.
328 (*4p*). Application of proceeds of sale.

Delivery of Goods and lien for Freight on Goods imported into the United Kingdom.

328 (*4q*). Power to ship-owner to enter and land goods in default of entry and landing by owner of goods.
328 (*4r*). If, when goods are landed, the ship-owner give notice, for that purpose the lien for freight shall continue.
328 (*4s*). Lien to be discharged on proof of payment.
328 (*4t*). Lien to be discharged on deposit of amount with warehouse-owner.
328 (*4u*). Warehouse-owner may at the end of 15 days, if no notice is given, pay deposit to ship-owner.
328 (*4v*). Course to be taken, if notice to retain deposit is given.
328 (*4w*). After 90 days warehouse-owner may sell goods by public auction.
328 (*4x*). Notices of sale to be given.
328 (*4y*). Monies arising from sale how to be applied.
328 (*4z*). Warehouse-owners' rent and expenses.
328 (*5a*). Restrictions on liability of warehouse-owner.
328 (*5b*). Saving of powers under local Acts.

Regulations regarding the Landing of Passengers and Goods at the Andamans.

328 (*5c*). Penalty for master anchoring his vessel for the purpose of landing of passengers or goods at unauthorised ports.
328 (*5c*) (Note). Extent of Regulation III of 1876.
328 (*5d*). Penalty for landing at unauthorised port.
328 (*5e*). Exception from provisions of sections 328 (*5c*) and 328 (*5d*).
328 (*5f*). Masters of vessels entering port to deliver list of crew, &c. Penalty.
328 (*5g*). Penalty for any person landing without license.
328 (*5h*). Penalty for landing goods without license.
328 (*5i*). Master leaving port to deliver list of crew, &c.
328 (*5j*). Inspection of vessels. Penalty.
328 (*5k*). Penalty for receiving a convict for the purpose of escape.
328 (*5l*). Power to board and search vessels in order to prevent illicit introduction of opium and ganja, &c.

328 (5*l*) (Note). } Prohibition on certain goods.
328 (5*m*). Application of enactments to fines. Recovery of fines in the case of masters of vessels.

Jurisdiction and Penalties under Port Acts.

328 (5*n*). Jurisdiction as to offences committed within Calcutta.
328 (5*o*). Jurisdiction as to offences committed out of Calcutta.
328 (5*p*). Offences how triable, and penalties how recovered.
328 (5*q*). Costs of convictions.
328 (5*r*). Damages, &c., payable under Indian Ports Act how ascertained and recovered.
328 (5*s*). Costs of distress.
328 (5*t*). Magistrate to determine the amount to be levied in case of dispute.
328 (5*u*). Jurisdiction over offences beyond local limits of jurisdiction.
328 (5*v*). Conviction to be quashed on merits only. Form of conviction.
328 (5*w*). Infringement of certain sections under Rangoon Port Commissioners Act.
328 (5*x*). Infringement of rules under Rangoon Port Commissioners Act.
328 (5*y*). Punishment in default of fine.
328 (5*z*). Prosecutions under Rangoon Port Commissioners Act.
328 (6*a*). Receiving of dues as revenue.
328 (6*b*). Recovery of penalties under Ben: Act III of 1867.
328 (6*c*). Penalties how disposed of under Ben: Act III of 1867.
328 (6*d*). Powers, privileges, and liabilities of officers who collect fees under Bombay Act III of 1879. Punishment of offenders.

Canal Tolls and certain Harbour Dues.

328 (6*e*). What navigable channels may be rendered subject to provisions of the Bengal Canals Act.
328 (6*f*). Tolls to be paid on lines of navigation under the Act. Proviso.
328 (6*g*). Lieutenant-Governor may fix and alter rates of tolls.
328 (6*h*). Publication of rates and tolls at every toll-house.
328 (6*i*). Payment of tolls how enforced.
328 (6*j*). Penalty for evasion of tolls.
328 (6*k*). Rules relating to lines of navigation.
328 (6*l*). Appointment of supervisor with power to remove obstructions.
328 (6*m*). Penalty for causing obstruction in line of navigation.
328 (6*n*). Mischief by injury to public road bridge or river.
328 (6*o*). Recovery of fines.
328 (6*p*). Offences by whom punishable under Canal Tolls Act.

Carrying Dangerous Goods.

329. *Dangerous cargo.*
329*a*. Restrictions on carriage of dangerous goods.
329*b*. Penalty for misdescription of dangerous goods.
329*c*. Power to refuse to carry goods suspected of being dangerous.
329*d*. Power to throw overboard dangerous goods.
329*e*. Forfeiture of dangerous goods improperly sent.
329*f*. Saving as to Dangerous Goods Act.
329*g*. Penalty for carrying deck-loads of timber in winter time.
329*g* } Saving for Colonial inland waters.

329*h*. Obligation to take precautions to prevent grain cargo from shifting.
329*i*. Precautions against shifting of grain cargo laden in port in Mediterranean Sea or Black Sea, or on coasts of North America.
329*j*. Exemption from precautions specified in this Act for ships laden in Mediterranean or Black Sea, or on coasts of North America.
329*k*. Notice by master of kind and quantity of grain cargo.
329*l*. Penalty for false statement in notice.
329*m*. Power of Board of Trade for enforcing Act 17 & 18 Vic., c. 104.
329*n*. Prosecution of offences and recovery of penalties.
329*o*. Definitions of words used in 43 & 44 Vic., c. 43.
329*p*. Stowage of grain cargo. Penalty for improper stowage.
329*q*. Power to board and search vessels in order to prevent illicit introduction of opium and ganja in the Andamans.

Emigration and Emigrant Ships.

Appointment of Emigration Officers.

329 (*1a*). Appointment of emigration agents.
329 (*1a*) (Note). Places for emigration to which contracts may be made with natives.
329 (*1a*) (Note). Power to legalize emigrations to other places. Proviso.
329 (*1a*) (Note). Contracts may be made for emigration to such other places.
329 (*1a*) (Note). From what ports emigration lawful.
329 (*1b*). Appointment of protectors of emigrants.
329 (*1b*) (Note). Indian Emigration Act, 1871, not to apply to Straits Settlements.
329 (*1c*). Appointment of medical inspectors.
329 (*1d*). Appointment of emigration agents.
329 (*1e*). Appointment of protector of emigrants.
329 (*1e*) (Note). Application of Act V of 1877. Extent of Act.
329 (*1f*). Appointment of officers.
329 (*1f*) (Note). Extent of Act I of 1882.

Duties of Emigration Officers.

329 (*1g*). General duties of protectors of emigrants. Inspecting vessels with return emigrants.
329 (*1h*). And to have facilities for inspection.
329 (*1i*). General duties of protector. Inspection of vessels with return emigrants.
329 (*1j*). Duty of assistant inspector.
329 (*1k*). Power of Local Government and officers exercisable from time to time.

Emigration Officers to be Public Servants.

329 (*1l*). Protectors and medical inspectors to be public servants.
329 (*1m*). Emigration agent and his subordinates and protector of emigrants to be public servants.

Emigrant Vessels.

329 (*1n*). Emigrant not to be received on board unlicensed vessel. Application for license. Contents of license. Survey of vessel. Report after survey and certificate to master. Bond to be executed by master.

329 (*1o*). Vessels to carry more than 20 passengers must be licensed. Power to exempt vessels. (*Note*). Transport by sea to Chittágong.

329 (*1p*). Application for license. Contents of application.

329 (*1q*). Grant of license.

329 (*1r*). Emigrants not to be received on board vessels not licensed under Native Passengers Act, or without protector's certificate.

329 (*1s*). Fee for license. Provision for annual license.

329 (*1t*). Embarkation agent may limit number to be received on board on any particular voyage.

329 (*1u*). Space and accommodation required on board.

329 (*1v*). Two children under ten to be counted as one person.

329 (*1w*). Master to make returns.

329 (*1x*). Provisions, fuel, and water. Surgeon, medicines, and stores. Supply of water for vessel calling at intermediate port. Supply in vessel fitted with distilling apparatus. Protector and inspector of emigrants to ensure compliance with above provisions.

329 (*1y*). Supply of extra clothing.

329 (*1z*). Provisions, clothing, medical and other officers, cooks, &c.

329 (*2a*). Medical officer to be licensed.

329 (*2b*). Certificates from protectors of emigrants and from emigration agents.

Embarkation.

329 (*2c*). Emigrants refusing to embark. Proviso.

329 (*2d*). Time of sailing for places east of Cape of Good Hope; for other places.

329 (*2e*). Emigrant unfit to undertake voyage.

329 (*2e*) (Note). Registration of emigrants recruited in presidency towns. Copy of registration by protector to be forwarded by agent. After examination and medical inspector's certificates, emigration agent to grant a pass.

329 (*2f*). Provisions of Act to be explained.

329 (*2g*). Procedure on embarkation. Emigrant to give his pass to master. Protector to be personally present. Examination by medical inspector. One copy of list of emigrants to be given to protector to be signed and returned to master. Emigrant without pass not to remain on board. Pass to be returned to emigrant on arrival at place of destination.

329 (*2g*) (Note). Copy of registration to be shown to medical inspector. Emigrants to be inspected by him. When emigrant to be sent back to place of registration. Penalty on failure of emigration agent to pay sum required to enable emigrant to return.

329 (*2h*). Emigrant to give his pass to master.

329 (*2h*) (Note). Grant of embarkation pass to emigrant. Proviso.

329 (*2i*). Emigration agent to be present at embarkation.

329 (*2j*). Master to deliver list of emigrants.

329 (*2k*). Copy of list of emigrants to be signed by emigration agent and returned to master; and by him to be delivered at place of destination.

329 (*2l*). Protector to send list of emigrants to Government of place to which they sail.

329 (*2m*). Vessels sailing from Calcutta to depart within 24 hours of embarkation.

329 (2n). Vessels sailing from Calcutta to be towed to sea.
329 (2o). Copies of Act and rules to be kept on board.
329 (2p). Taking emigrants for Seychelles to quarantine station of Mauritius.

Departure of Passenger Vessels and Procedure during Voyage.

329 (2q). Embarkation agent may order departure of vessel if delay occurs.
329 (2r). Master to receive way-bills from embarkation agent.
329 (2s). Labourers not allowed finally to leave vessel at any place other than that mentioned in way-bill.
329 (2t). Master to stop his vessel at certain places where there is a magistrate.
329 (2u). Magistrate may at any time inspect vessel. Master bound to give all information required.
329 (2v). Magistrate may regulate communication between vessel and land.
329 (2w). Magistrate may detain vessel for inspection and for removal of disease, and may detain sick native passengers.
329 (2x). Magistrate may detain sick labourers, and shall arrange for their accommodation and treatment.
329 (2y). Expenses how to be recovered.
329 (2z). Measures to be taken if excess number of native passengers found on board.
329 (3a). Infraction of the Act and rules to be reported. Vessel may be detained.
329 (3b). Magistrate may depute a subordinate magistrate to discharge the functions of the magistrate.
329 (3c). No ship to discharge except at places appointed by Government.
329 (3c) (Note). } Extent of Act VIII of 1876.
329 (3d). Master to give notice of day of sailing.
329 (3e). Power to enter and inspect ship.
329 (3f). Not to sail without two certificates. Port-clearance.
329 (3g). Contents of certificate A.
329 (3h). Contents of certificate B.
329 (3i). Grant of certificate B.
329 (3j). Grant of certificate A.
329 (3k). Ship may be surveyed. Proviso as to ships holding certificate mentioned in section 13. Expense of survey.
329 (3l). Certificate not to be granted where cargo dangerous or dangerously stowed. Discretion of officer.
329 (3l) (Note). } Discretion of officer to be subject to control of Local Government.
329 (3m). Copy of certificate to be exhibited.
329 (3n). Contract by passengers for supply of their own provisions.
329 (3o). Governors of Her Majesty's possessions abroad may prescribe certain rates of deckage for the conveyance of Asiatics and Africans.
329 (3p). Governor of Ceylon may regulate number of passengers to be carried on certain vessels.

Native Passenger Ships—Rules for Short Voyages.

329 (3q). Space to be provided for intermediate or between-deck passengers.
329 (3r). Ship taking additional passengers at intermediate port.
329 (3s). Report of death on the voyage.

Native Passenger Ships—Rules for Long Voyages.

329 (*3t*). Space to be provided for passengers.
329 (*3u*). Power to prescribe space to be contained for passengers.
329 (*3v*). Statement of passengers.
329 (*3w*). Death on voyage. Procedure on arrival.
329 (*3x*). Ship taking additional passengers and touching at intermediate port.
329 (*3y*). Bond when ship clears for port in Red Sea.
329 (*3z*). Ships sailing from or to port in Red Sea to touch at Aden.
329 (*4a*). Bill of health.
329 (*4b*). Certain ships to carry medical officer.
329 (*4c*). Certain ships to be propelled by steam.
329 (*4d*). Power for Local Government to direct medical inspection of passengers.

Expenses of Distressed Passengers.

329 (*4e*). Certain provisions of 18 & 19 Vic., c. 119, made applicable to India.
329 (*4f*). Governors or Consuls may pay expenses of passengers taken off passenger ship.
329 (*4g*). Governors or Consuls may send on passengers if the master of the ship fail to do so.
329 (*4h*). Expenses so incurred to be a Crown debt. Passengers forwarded by Governor, &c., not entitled to compensation.

Supplementary Powers of Government as to Emigration and Emigrant Ships.

329 (*4i*). Power of the Governor General in Council to make rules.
329 (*4j*). Power of the Local Government to make rules.
329 (*4k*). Special powers of the Lieutenant-Governor of Bengal and Chief Commissioner of Assam.
329 (*4l*). Power to prescribe penalties. Publication of rules.
329 (*4m*). Power to make rules as to provisions, stores, and boats.
329 (*4n*). Power to prohibit emigration to any place to which emigration is allowed.
329 (*4o*). Power to prohibit emigration.
329 (*4p*). Power to prohibit emigration to the Straits Settlements.
329 (*4q*). Emigration to place mentioned to be suspended.
329 (*4r*). During suspension, laws against emigration to be in force as to place specified.
329 (*4s*). Revocation of suspension.
329 (*4t*). Revocation of prohibition.
329 (*4u*). Power to exempt ship from provisions of Act VIII of 1876.
329 (*4v*). Power to increase fees.
329 (*4v*) (Note). Licensing of depôts; fee therefor. Form of recruiter's license and fee. Fee for registration.

Special Provisions as to French Colonies.

329 (*4w*). Nomination of agents for presidency towns. Proviso.
329 (*4x*). Protector of emigrants.
329 (*4x*) (Note). Article V of Convention with French Government.
329 (*4y*). Power to extend Act to French Colonies not expressly named.
329 (*4y*) (Note). Paragraphs 4, 15, and 22 of Convention with French Government.
329 (*4z*). Vessel to carry European surgeon and interpreter.

Miscellaneous Matters relating to Emigration and to Passenger Ships.

329 (5*a*). Probable length of voyages to places mentioned in section 23.
329 (5*b*). Notification legalizing emigration to new place to give probable length of voyages thither.
329 (5*c*). Exercise of powers of magistrate of the district under this Act.
329 (5*d*). Information to be sent to ports of embarkation.
329 (5*e*). Report of Consul.
329 (5*f*). Appointment of officers.
329 (5*g*). Fines, fees and rates to be credited to "Inland Labour Transport Fund."
329 (5*h*). Power of Governor General in Council, by any Act passed for that purpose, to adopt this Act for India, and to make rules respecting food, passengers, &c., and to declare in what manner penalties may be sued for and recovered. Indian Act may be enforced in like manner as this Act.
329 (5*i*). Power of Governor General in Council, by any Act passed for that purpose, to adopt this Act for India, and to make rules respecting food, passengers, &c., and to declare in what manner penalties may be sued for and recovered. Indian Act may be enforced in like manner as this Act.
329(5*j*). Transfer to Board of Trade of duties of Commissioners of Customs with respect to measurement of ships.
329(5*k*). Transfer to Board of Trade of powers and duties of emigration commissioners.
329(5*l*). Extension of penalties or offences connected with applications for assistance in emigration.
329(5*m*). Penalty on surveyor receiving gratuity, &c., for duties performed under Passengers Act, 1855.
329(5*n*). Provision against double survey in case of passenger steamers and emigrant ships.
329(5*o*). Provision as to survey of foreign passenger steamer or emigrant ship.
329(5*p*). Power to modify Passengers Act, as to food space and accommodation in emigrant ships.

Penalties under Emigration Acts and Native Passenger Ships Act.

329(5*q*). For receiving emigrants in unlicensed vessels.
329(5*r*). For clearing ship without complying with rules.
329(5*s*). Master receiving native passengers on board in contravention of Act.
329(5*s*). (Note). } Abetment of offences under Inland Emigration Act, 1882.
329(5*t*). For taking on board, after clearance, emigrants not entered in list.
329(5*u*). Penalty for non-compliance with requirements as to list of passengers. Penalty for failing to obtain fresh certificate for additional passengers.
329(5*v*). Penalty for excess of number specified in certificate.
329(5*w*). Receiving emigrant on board without license or certificate.
329(5*x*). Failure to comply with requirements of sections 34 and 36 (329(2*h*) & 329(2*j*).
329(5*y*). Taking on board, after clearance, emigrants not entered in list.
329(5*z*). For fraudulent acts whereby certificate becomes inapplicable to vessel.
329(6*a*). Penalty for fraudulent alteration in ship after certificate obtained.
329(6*b*). Penalty for fradulent alteration of vessel after grant of license.
329(6*c*). For proceeding to sea without steam.
329(6*d*). Penalty on owner and master of certain ships not propelled by steam.
329(6*e*). Penalty on master of certain ships sailing without medical officer.
329(6*f*). Penalty on master receiving passengers in contravention of section 280. (329 4*d*).

329(*6g*). Penalty on master or medical officer of certain ships disobeying rules.
329(*6h*). Penalty for not obtaining bill of health.
329(*6i*). Master or officer wilfully omitting to stop vessel at certain places.
329(*6j*). Person disobeying magistrate's order as to communication between vessel and land.
329(*6k*). Master or medical officer disobeying or neglecting to enforce rules.
329(*6l*). Penalty for bringing native passengers from Eastern port in excess of authorised proportion.
329(*6m*). Penalty for landing passenger at place other than that at which he has contracted to land.
329(*6n*). Penalty for landing emigrant or dependent at other than specified port.
329(*6o*). Master permitting labourer to leave vessel contrary to section 98 (329 *2g*).
329(*6p*). For clearing ship without complying with rules.
329(*6q*). Master not complying with section 94 (329 *1z*).
329(*6r*). Penalty for failing to supply passengers with prescribed provisions.
329(*6s*). Master not complying with order under section 96 (329 *2q*).
329(*6t*). Penalty for not exhibiting copy of certificate.
329(*6u*). Penalty for ship unlawfully departing.
329(*6v*). Penalty for opposing entry on or inspection of ship.

Procedure under Emigration and Native Passengers Acts.

329(*6w*). Customs officers may search and detain for purposes of Emigration Act, 1871.
329(*6x*). Customs officers may search and detain for purposes of Straits Settlements Emigration Act, 1877.
329(*6y*). Adjudication of offences under Native Passenger Ships Act, 1876. Fine leviable by distress of ship.
329(*6z*). Jurisdiction under Native Passenger Ships Act, 1876.
329(*7a*). By whom proceedings for penalties to be instituted.
329(*7b*). Application of fines.
329(*7c*). Prosecutions under Indian Emigration Act, 1871, where and how instituted. Mode of recovering fines.
329(*7d*). Prosecutions under Straits Settlements Emigration Act, 1877, how instituted.
329(*7e*). Place of trial for offences under Inland Emigration Act, 1882.
329(*7f*). Saving of prosecutions under other Laws.
329(*7g*). Depositions receivable when witness cannot be produced.

PART V.

Pilotage.

330. Application of Part V of Act.
330*a*. Signals for pilots.
330*b*. Power to alter rules as to signals.

Signals to be hoisted on requisition of Pilot.

330*c*. Master to hoist number of vessel.
330*d*. Penalty for not hoisting signal.
330*e*. Pilot to require master to hoist signal. Pilot may anchor if master refuses.
330*f*. Punishment of pilot disobeying provisions of Indian Ports Act.

Establishment of Pilots and Pilot-boats on the Indus.

330*g*. Establishment of pilot and pilot-boats to be maintained.
330*h*. Establishment at what places to be available.
330*i*. Commissioner in Sindh to appoint and suspend persons, and to make necessary rules.

Control of Pilots.

330*j*. Control of pilots within the port.
330*k*. Trustees vested with right and privilege of maintaining pilots.
330*l*. Licensing of pilots.
330*l* (Note). } Extent of Act XII of 1883.
330*m*. No person to act as pilot except under license.
330*n*. Power to make rules to regulate conduct of pilots.

Pilotage Accounts.

330*o*. Expenditure of fees and fines realised.
330*p*. Account to be kept of moneys received and expended.
330*q*. Pilotage account.
330*r*. Pilotage fees how credited. Moneys credited to pilotage account how expended.
330*s*. Balance may be invested by Board in public securities. Amounts to be invested to be limited by Government. Surplus how disposed of. Proviso as to claims of pilots, &c., on balance of pilotage account. Interest how credited and debited.

Pilotage when compulsory.

330*t*. Certain vessels not to be moved without having a pilot or permission of harbour master.
330*t* (Note). } Certain commanders to be deemed pilots.

Pilotage Fees.

330*u*. Fees for pilotage, hauling, remooring, &c.
330*v*. Fees for vessels piloted on the Indus.
330*w*. Fees for vessels piloted through channels on the Indus.
330*x*. Penalty for non-payment of fees.

Trial of Pilots at Fort William and British Burma.

330*y*. Trial of pilots accused of breach of duty.
330*z*. Power to direct investigation by special Court into charges against pilots.
330 (*1a*) Appointment of judge.
330 (*1b*) Appointment of prosecutor.
330 (*1c*) Trial to be held before judge and jury.
330 (*1d*) Constitution of Court.
330 (*1e*) Appointment of president.
330 (*1f*) Assessors.
330 (*1g*) List of merchants and pilots liable to serve on jury.
330 (*1h*) Notice to prosecutor and accused of time and place for appointing jury.
330 (*1i*) Appointment of jury.
330 (*1j*) Appointment of assessors.
330 (*1k*) Fees to be paid to assessors.

330 (*1l*) Day of trial to be fixed and summons to issue to jurors. Penalty for non-attendance.

330 (*1l*) (Note). } Jurors to be sworn or affirmed.

330 (*1m*) Trial how to proceed if any juror does not attend.

330 (*1n*) Register of jurors who have served.

330 (*1o*) Judge may summon witnesses to attend at certain time and place. Examination of witnesses about to leave Calcutta.

330 (*1p*) Copy of grounds of charge to be supplied to pilot.

330 (*1q*) Persons charged to be heard.

330 (*1r*) Powers of the Court as to evidence and regulating the proceedings.

330 (*1s*) Penalty for witnesses not attending or refusing to give evidence.

330 (*1s*) (Note). } Witnesses.

330 (*1t*) Verdict of jurors.

330 (*1u*) Court to report to Chief Commissioner.

330 (*1v*) Sentence if accused found guilty. Preparation of schedule of offences and punishment.

330 (*1w*) Power to cancel, suspend, or reduce license for misconduct.

330 (*1x*) Power to suspend license pending trial or investigation.

330 (*1y*) No sentence final till approved by Government. Government may remit sentence or mitigate punishment.

330 (*1z*) If verdict of jurors be manifestly contrary to evidence or trial otherwise insufficient, judge may certify fact to Lieutenant-Governor of Bengal, who may acquit or order new trial.

330 (*2a*) Power to make rules.

330 (*2a*) (Note). } Rules for the trial of pilots under Act XII of 1859.

330 (*2b*) Power of Chief Commissioner to make rules.

330 (*2c*) Marine authorities of Government may pass orders upon charge of breach of duty where trial unnecessary.

330 (*2d*) Withdrawal of license from licensed pilot.

330 (*2e*) Act applicable to persons in pilot service and to licensed pilots.

330 (*2f*) Power to delegate functions of Chief Commissioner.

No Pilots to take charge without production of Port-clearance.

330 (*2g*) No vessel to depart without port-clearance; and no pilot to take charge of vessel without production of port-clearance.

330 (*2h*) Offences of pilots, &c., and punishments under Sea Customs Act, 1878.

Pilot to receive Manifest from Master.

330 (*2i*) Power to fix places beyond which inward-bound vessels are not to proceed until manifest delivered. Delivery of manifest when vessel anchors below place so fixed.

330 (*2j*) Delivery of manifest where no place is so fixed.

Sections 331 to 388 of M. S. Act, 1854, are omitted as not relating to India.

PART VI.

LIGHT-HOUSES.

Management of Light-houses.

389 Management of light-houses, buoys, and beacons to be in Trinity House, Commissioners of Northern Light-houses, and Port of Dublin Corporation.

390. Incorporation of Commissioners of Northern Light-houses.
391. Power to elect certain new members.
392. Trinity House may inspect light-houses in Scotland and Ireland.
393. Board of Trade may appoint persons to inspect light-houses, &c.
394. Power to general light-house authorities to control local authorities.
394*a*. Lights, &c., under local authorities to be inspected, &c., by general light-house authorities.
395. In case of default by local bodies, local light-houses may be transferred to general light-house authorities.

Light-dues.

396. Dues to be levied.
396*a*. Dues may be fixed by Order in Council to be paid to local authorities.
397. Light-dues to be subject to revision by Her Majesty in Council.
398. Power of general light-house authorities to alter and regulate dues.
398*a*. Power to vary rates of dues. Proviso.
398*a* (Note). } Extent of Act IX of 1879.
399. Publication of dues and regulations.

Liability for Light-dues.

399*a*. Liability for, and recovery of, light-dues.
399*b*. Powers to consignees, &c., to retain light-dues paid by them.
399*c*. Coast light-dues payable in respect of vessels of fifty tons.
399*d*. Dues when payable.
399*e*. Master of vessel liable to dues to report arrival.
399*f*. Tonnage of vessel chargeable with coast light-dues how ascertained—if registered, if not registered.

Receipt for Light-dues, on clearance, granted.

400. Ship not to be cleared without production of receipt for light-dues.
400*a*. No port-clearance to be granted until dues, &c., are paid.
400*b*. Collection of dues. Voucher to be given.

Power to distrain for Dues.

401. Power of distress for light-dues.
401*a*. On refusal to pay dues or expenses, the collector may distrain and sell.
401*b*. Master to specify, on demand, voyage on which vessel is bound.
401*c*. Penalty for evading payment of dues.

Accounts of Light-dues.

402. Light-dues how to be paid over and accounted for.
402*a*. Statement of receipts and expenditure to be published.

Application of Light-dues and disputes as to Dues.

403. Application of light-dues.
403*a*. Application of Maulmain and Bassein port-dues to light-houses.
403*b*. Application and accounts of light-dues.
403*c*. Magistrate to decide disputes as to light-dues.
403*d*. Saving of prosecutions under other laws.

Construction of and Dues for new Light-houses.

404. Power to light-house authorities to erect, place, and alter light-houses, buoys, and beacons.
404*a*. Light-houses, &c., to be executed under Bombay Port Trust. Procedure before commencement of works.
404*b*. Loans by Public Works. Loan Commissioners for construction of light-houses on the Great Basses.
404*c*. Guarantee of loan.
404*d*. Accounts to be laid before Parliament.
404*e*. Loans by Public Works. Loan Commissioners for public loan for construction of light-house on the Great Basses.
404*f*. Substitution of light-house for light-ship in Order in Council as to dues.
404*g*. Payment of balance due for Little Basses light-ship.
404*h*. Application of dues of Great and Little Basses lights.
404*i*. Saving of securities and guarantee under 32 & 33 Vic., c. 77.
405. Power in case of the Commissioner and Corporation to be subject to approval by Trinity House with appeal to Board of Trade.
406. Sanction of Board of Trade how to be obtained.
407. Trinity House to inform Commissioners or Corporation of decision of Board of Trade.
408. Power to Trinity House with sanction of Board of Trade to compel execution of works by Commissioner and Corporation.
409. Sanction of Board of Trade how to be obtained.
410. Her Majesty may by Order in Council fix dues to be taken for new light-houses.
411. No dues to be levied in the Channel Islands without consent of the States, and no power to be exercised therein but by Order in Council.
412. Incorporation of 8 & 9 Vic., Caps. 18 & 19.

Surrender of Local Light-houses.

413. Local light-houses may be surrendered to general light-house authorities.

Damage to Lights, Buoys, and Beacons.

414. Penalty for injuring lights, buoys, and beacons.
414*a*. Mischief by destroying or moving or rendering less useful a light-house or sea-mark.

Prevention of False Lights.

415. General light-house authorities may prohibit false lights.
416. If not obeyed may abate such lights.
416*a*. Exhibition of a false light, mark, or buoy.

Exemption of Light-houses from Taxation.

416*b*. Taxes on certain buildings—exemption of light-houses.

Colonial Light-houses.

416*c*. Her Majesty may by Order in Council fix dues for Colonial light-houses.
416*d*. No such dues to be levied in any Colony without the consent of the Colonial Legislature.
416*e*. Mode of collecting said dues.
416*f*. Dues to be paid over to Her Majesty's Paymaster General.

416*g*. Dues to be applied to expenses of light-house for which they are levied.
416*h*. Power to borrow money on security of dues.
416*i*. Accounts for each light-house, &c., to be kept, and laid before Parliament, and to be audited.

PART VII.

Mercantile Marine Fund.

417. Sums to be carried to Mercantile Marine Fund.
418. Application of Mercantile Marine Fund.
418*a*. Fees, salaries, and costs.
419. Application of ballastage rates.
420. Establishment for light-houses and ballastage charged on fund to be fixed by Her Majesty in Council.
421. Power to grant superannuation allowances.
422. Estimates and accounts for other expenses to be approved by the Board of Trade.
423. No expense to be allowed unless sanctioned by Board of Trade.
424. For the purposes of erecting and repairing light-houses, and other extraordinary expenses, Treasury may advance money.
425. Power to Board of Trade to borrow money on the credit of fund.
426. Power to Public Works Loan Commissioners to advance money on the credit of the fund.
427. Light-house authorities to account for receipt and expenditure to Board of Trade.
428. Accounts of fund to be audited by Commissioners of Audit.
429. Accounts to be laid before Parliament.
430. Property used for the purposes of Parts III and VI of M. S. Act of 1854 to be exempt from all rates and taxes.
431. Ships and boats of light-house authorities exempt from harbour-dues.

PART VIII.

Wrecks, Casualties, and Salvage.

Inquiries into Wrecks.

432. Inquiries to be instituted in case of wreck and casualty.
432*a*. Power to hold inquiries by formal investigations as to stranded and missing ships.
432*b*. Place of investigation.
433. Formal investigation before justices.
433*a*. Investigation of accidents.
433*b*. Power for Local Government to appoint special Court of Investigation.
433*c*. Appointment, duties, and powers of Wreck Commissioners for investigating shipping casualties.
434. Power to appoint nautical assessors.
434*a*. Assessors and rules of procedure on formal investigations of shipping casualties.
434*b*. Power for other Courts to hold investigations into casualties when so directed.
434*c*. Power for Court of Investigation to inquire into charges against masters, mates, and engineers.

434*d*. Power for Local Government to direct investigation into charges of incompetency or misconduct.
434*e*. Persons accused to be heard.
434*f*. Powers of Courts as to evidence and regulation of proceedings.
434*g*. Assessors.
434*h*. Power to arrest witnesses and cause entry and detention of vessels.
434*h* (Note). } Application of Indian Merchant Shipping Act—Act V of 1883.
434*i*. Power to commit for trial and bind over witnesses.
434*j*. Depositions.
434*k*. Report by Court to Local Government.
434*l*. Saving of power to cancel and suspend certificates under English Acts.
434*m*. Power to issue local certificates in lieu of cancelled or suspended certificates.
434*n*. Power for Local Government to suspend or cancel certificates in certain cases.
434*o*. Local Government may suspend or cancel certificates.
434*p*. Obligation to deliver up cancelled or suspended certificates.
434*q*. Report to other Local Governments.
434*r*. Report to Board of Trade.
434*s*. Power to revoke cancellation or suspension and grant new certificate.
435. Stipendiary to be the magistrate who is a member of Local Marine Board, and to be paid.
436. Costs of such investigation.
437. Investigations in Scotland.
438. Master or mate may be required to deliver certificates to be held until close of inquiry.
438*a*. Re-hearing of, and appeal against, investigation into shipping casualty or misconduct of officer.
438*b*. Rules as to investigations into shipping casualties and misconduct of officers.
438*c*. Rules to be laid before Parliament.

Appointment and Duties of Receivers.

439. Board of Trade to be superintendents of wreck, with power to appoint receivers.
439*a*. "Wreck" defined.
439*a* (Note). } Saving of certain sections of the Indian Ports Act, 1875.
439*b*. Appointment of receivers.
439*c*. Commissioners may be appointed receivers of wreck.
440. Admiral not to interfere with wreck.
441. Duty of receiver when any ship is stranded or in distress.
442. Power of receiver in case of such accident to any ship or boat.
443. All articles washed on shore or lost or taken from any ship or boat to be delivered to the receiver.
444. Power of receiver to suppress plunder and disorder by force.
445. Certain officers to exercise powers of receiver in his absence.
446. Power in case of a ship being in distress to pass over adjoining lands with carriages.
447. Penalty on owners and occupiers refusing to allow carriages to pass over their land.
448. Power of receiver to institute examination with respect to ships in distress.

448*a*. Power for Wreck Commissioner to institute examination, with respect to ships in distress under Merchant Shipping Act, 1854.
449. *Original of certified copy of examination to be primâ facie evidence.*

Rules as to Persons finding Wrecks.

450. Rules to be observed by persons finding wreck.
450*a*. Rules to be observed by persons finding wreck, if he be the owner; if he be not the owner.
450*b*. Penalty for failure to give notice of, or to deliver, wreck to the receiver of wreck.
450*c*. Government or person finding wreck entitled to salvage. Disputes concerning amount of salvage.
451. Power for receivers to seize concealed wrecks.
452. Notice of wreck to be given by receiver.
452*a*. Notice of wreck to be given by receiver.
453. Goods deemed perishable or of small value may be sold immediately.
453*a*. Wreck may be sold in certain cases.
453*b*. Proceeds how applied.
454. In cases where any lord of the manor or other person is entitled to unclaimed wreck, receiver to give notice to him.
455. Payments to be made to receiver.
455*a*. Remuneration for services of coast guards.
456. Disputes as to sums payable to receiver to be determined by Board of Trade.
457. Application of fees.

Salvage in the United Kingdom.

458. Salvage in respect of services rendered in the United Kingdom.
458*a*. Provision concerning salvage of life may, with the consent of any foreign country, be applied to its ships on the high seas.
459. Salvage for life may be paid by Board of Trade out of Mercantile Marine Fund.
460. Disputes as to salvage how to be settled.
460*a*. Receiver of wreck may appoint a valuer, &c., in salvage cases.
461. Manner in which justices may decide disputes.
461*a*. Extension and amendment of provisions as to summary jurisdiction in small salvage cases.
462. Costs of arbitration.
463. Justices may call for documents and administer oaths.
464. Appeal to Courts of Admiralty.
465. Justices to transmit copy of proceedings and certificate of value to Court of Appeal.
466. Payment of salvage to whom to be made in case of dispute as to apportionment.
467. Apportionment of salvage.
468. Manner of enforcing payment of salvage.
468*a*. Jurisdiction of Court of Session in salvage cases.
469. Power of receiver to sell property salved in cases of non-payment.
470. Subject to payment of expenses, fees, and salvage, owner entitled to wreck.

Unclaimed Wreck in the United Kingdom.

471. Receiver to deliver up possession of unclaimed wreck to lord of manor or other person entitled.

472. Disputed title to wreck how to be decided.
472*a*. Delivery of wreck by receiver to discharge him from liability, but not to prejudice title.
473. Appeal from decision of justices.
474. Power of the Board of Trade on behalf of the Crown to purchase rights to wreck.
475. Unclaimed wreck to be sold.
475*a*. Crown rights to wreck. Application of proceeds of wreck belonging to the Crown.

Jurisdiction of the High Court of Admiralty.

476. High Court of Admiralty may decide on all salvage cases, whether on sea or land.

Offences in respect of Wreck.

477. In case of ship wrecked being plundered by a tumultuous assemblage, the hundred to be liable to damages.
478. Penalty for plundering in cases of shipwreck, for obstructing the saving of shipwrecked property, and for secreting the same.
479. Penalty for selling wreck in foreign ports.

Other Offences in respect of Ships.

479*a*. Setting fire to or casting away, &c., a ship to prejudice the owner or underwriter.
479*b*. Setting fire to or casting away or destroying a ship.
479*c*. Principals in the second degree accessories to felony. Abettors in felony misdemeanors.
479*d*. Mischief with intent to destroy or make unsafe a decked vessel or one of 20 tons burden.
479*e*. Punishment for mischief described in section 479*d*, committed by fire or any explosive substance.
479*f*. Punishment for intentionally running vessel aground or ashore with intent to commit theft.
479*g*. Rash navigation of a vessel.
479*h*. Conveying persons by water for hire in a vessel overloaded or unsafe.
479*i*. Theft in a vessel.

Dealers in Marine Stores, and Manufacturers of Anchors.

480. Regulations to be observed by dealers in marine stores.
481. Manner of obtaining permit to cut up cables.
482. Permit to be advertised before dealer proceeds to act thereon.
483. Manufacturers to place marks on anchors.

Salvage by Her Majesty's Ships.

484. No claim for salvage services to be allowed in respect of loss or risk of Her Majesty's ships or property.
485. Claims for salvage by Her Majesty's officers not to be determined without consent of Admiralty.
486. Steps to be taken when salvage services have been rendered by Her Majesty's ships. Form of salvage bond.
487. Consular officer or judge to fix amount for which a bond is to be given.
488. On master executing bond the right of detention to cease.
489. Provision for additional security in the case of ships owned by persons resident out of Her Majesty's dominions.

Arrangement of Sections.

490. Documents to be sent to England.
491. Whom the bond shall bind.
492. Courts in which it is to be adjudicated on.
493. Power of High Court of Admiralty to enforce bonds.
494. Saving clause.
495. Documents free from duty.
496. Punishment for forgery and false representations.

Salvage generally.

497. Voluntary agreement may be made which shall have the same effect as the bond above mentioned.
498. Power for Court having Admiralty jurisdiction to apportion salvage.

Miscellaneous.

498*a*. Signals of distress.
498*b*. Power to alter rules as to signals.
498*c*. Private signals.
498*d*. In case of wreck of foreign ships, Consul General to be deemed agent of owner.
499. Foreign goods found derelict to be subject to the same duties as on importation.
500. Goods saved from ships wrecked to be forwarded to the ports of their original destination.
501. Provision as to certain terms in Scotland.

Capture by Ship other than a Ship of War.

501*a*. Prizes taken by ships other than ships of war to be droits of Admiralty.

Prize Salvage.

501*b*. Salvage to recaptors of British ship or goods from enemy.
501*c*. Permission to re-captured ships to proceed on voyage and postponement of adjudication. Proceedings in case return of ship is delayed.

PART IX.

Liability of Ship-owners.

502. Application of Part IX of Merchant Shipping Act, 1854.

Limitation of Liability.

503. Owner not liable in respect of certain articles.
504. *Measure of liability.*
505. *Value of carriage of goods and passage money to be considered as freight.*
505*a*. Ship-owners' liability limited.
505*b*. Limitation of invalidity of insurances.
506. Provision for separate losses.
506*a*. Proof of passengers on board lost ship.

Mode of Procedure.

507. In case of loss of life or personal injury, Board of Trade may direct proceedings.
508. Either party may require question to be tried by a special jury.
509. Provisions for conduct of proceedings.

510. Rules as to damages and application thereof.
511. Any person who is dissatisfied with the amount of statutory damage may bring an action on his own account.
512. If Board of Trade decline to institute proceedings, individual may bring actions.
513. Proceedings by Board of Trade after refusal.
514. Proceedings in case of several claims being made on owner of ship.
515. Money paid for damage how to be accounted for between part owners.
516. Saving clause.

PART X.

Legal Procedure.

Application.

517. Application of Part X of Merchant Shipping Act, 1854.
518. Punishment of offences and recovery of penalties.
518*a*. 20 & 21 Vic., c. 43, s. 3, not to apply to proceedings under Board of Trade or this Act, &c., except as to payment of fees.
519. Stipendiary magistrate to have same power as two justices.
520. Offences where deemed to have been committed.
520*a*. Accessory to felony before the fact may be tried as such, or as a substantive felony, by any Court which has jurisdiction to try the principal felon, although the offence be committed on the seas or abroad. If the offences of principal and accessory be committed in different places, accessory may be tried in any of the King's Courts in India having jurisdiction. No person to be tried twice for the same offence.
520*b*. Accessory after the fact may be tried by any Court which has jurisdiction to try the principal felon. If the offences of principal and accessory be committed in different places, accessory may be tried in any Court having jurisdiction. No person to be tried twice for the same offence.
520*c*. Accessory may be prosecuted after conviction of the principal, though the principal die or be pardoned, or delivered before attainder.
520*d*. Admiralty offences.
520*e*. Provision for the trial of murder and manslaughter when the cause of death only, but not the death, or when the death only, but not the cause of death, happens within the limits of the East India Company's Charter.
520*f*. Offences triable where offender found.
520*g*. Adjudication of offences and recovery of penalties.
520*h*. Legal proceedings in case of offences under Merchant Shipping Act, 1876, to be deemed to be offences under Merchant Shipping Act, 1854.
521. Jurisdiction over ships lying off the coasts.
521*a*. Jurisdiction in case of offences on board ship.
521*b*. Jurisdiction for trial of offences by British subjects on board British ships or foreign ships to which they do not belong.
521*c*. Jurisdiction in respect of forfeiture of ships for offences against Foreign Enlistment Act.
521*d*. Regulations as to proceedings against the offender and against the ship.
521*e*. Place of enquiry or trial where scene of offence is uncertain or not in one district only, or where offence is continuing or consists of several acts.
521*f*. Offence committed on a voyage.
522. Service to be good if made personally or on board ship.

522*a*. Service on agent by whom defendant carries on business.
522*b*. Service of order on master, &c.
522*c*. Power to issue summons or warrant for offence committed beyond local jurisdiction. Magistrates procedure on arrest.
522*d*. Procedure where warrant issued by subordinate magistrate.

Distraint.

523. Sums ordered to be paid leviable by distress on ship.
523*a*. Wages, penalties, &c., payable by master or owner may be levied by distress of ship.
523*b*. Power to distrain for non-payment of rates, &c.
524. Application of penalties.
525. Limitation of time in summary proceedings.
526. Document proved without calling attesting witness.
527. Power of Judge of Court of Record or Admiralty to arrest foreign ship that has occasioned damage.
527*a*. Attachment before judgment.
528. Power in certain cases to detain ship before application made to judge.
529. Who to be defendant to suit in such cases.
529*a*. Board of Trade may sue in name of its officers.
529*b*. Application of the Army Act to ships.
529*c*. Prosecutions under the Rangoon Port Commissioners' Act.
530 to 543 omitted as not relating to India.

Admiralty Jurisdiction.

543*a*. Power to establish Supreme Court of Judicature in Bengal.
543*b*. Extent of jurisdiction of the Charter of Geo. II. and of Supreme Court of Judicature.
543*c*. Charter of 26th March 1774. Power given by the Charter to the Supreme Court to extend to high seas.
543*d*. Recital of Charter of King George the Second. Power to erect Courts of Judicature at Madras and Bombay.
543*e*. Letters Patent of George II. Power to establish Supreme Court of Judicature at Madras.
543*f*. Power to appoint Commissioners for adjudication of prize causes in India.
543*g*. Admiralty jurisdiction extended.
543*h*. Establishment of High Courts in the Presidencies.
543*h* (Note). Letters Patent of the High Courts.
543*i*. Abolition of Supreme and Sudder Courts.
543*j*. Jurisdiction and power of High Courts.

Admiralty Jurisdiction (Colonies).

543*k*. All persons charged in any Colony with offences committed on the sea, or in places within the jurisdiction of the Admiralty, may be dealt with as if the offences had been committed on waters within the local jurisdiction of the Courts of the Colony.
543*l*. Persons convicted of such offences shall suffer like punishments as on conviction of like offences in England.
543*m*. Provision for trial in any Colony of person charged with murder, manslaughter, &c., when death in Colony follows from injuries received on the sea. Charge in

respect of death on sea, &c., offences to be considered as having taken place wholly upon sea.

543*n*. Proceedings in case of persons entitled to be tried by the Supreme Court of a Presidency.

543*o*. At trials in Colonial Courts by virtue of Imperial Acts. Courts empowered to pass sentences as if crimes had been committed in the Colony.

543*p*. Jurisdiction given to High Court of Admiralty and Vice-Admiralty in cases where ships of war are engaged with persons alleged to be pirates, to determine whether they were pirates, &c.

543*q*. List of all cases decided in Vice-Admiralty Courts to be sent to the Lords Commissioners of the Admiralty every six months. Evidence to be transmitted and deposited in High Court of Admiralty.

Property of Pirates subject to Admiralty Courts.

543*r*. Ships taken from pirates may be proceeded against and shall be liable to condemnation as droits of Admiralty, but property belonging to any subject of Her Majesty or of any foreign powers shall be restored on payment of one-eighth of value. And the sum paid shall be distributed among the captors as directed by Order in Council.

543*s*. Persons giving false evidence under Admiralty Courts Act, 1863, deemed guilty of perjury.

543*t*. Jurisdiction of High Court of Admiralty.

Vice-Admiralty.

543*u*. Appointment of Vice-Admiral.

543*v*. Tenure of office of Vice-Admiral.

543*w*. Appointment of judge.

543*x*. Judge may appoint deputy.

543*y*. Judicial powers of deputy judge. Orders to be subject to appeal.

543*z*. Deputy judge may sit separately and at same time as judge or other deputies.

543 (*1a*). Judge may sit with deputy judges. Decisions to be subject to appeal.

543 (*1b*). Judge to regulate proceedings before deputy judges, and division of business.

543 (*1c*). Tenure of office of deputy judges.

543 (*1d*). Judge may delegate ministerial powers.

543 (*1e*). Appointment of Registrar and Marshal.

543 (*1f*). Judge may appoint deputy Registrars and Marshals. Tenure of office.

543 (*1g*). Vacancies to be notified by Secretary of State.

543 (*1h*). Admiralty may revoke appointments.

543 (*1i*). Deputies entitled to fees.

543 (*1j*). Saving the powers of the Admiralty.

543 (*1k*). Past proceedings confirmed.

543 (*1l*). Protection of officers.

543 (*1m*). Jurisdiction of Vice-Admiralty Courts.

543 (*1n*) (Note). } Duty on certain bonds.

543 (*1o*). Assessors in causes of salvage, &c.

543 (*1p*). Further jurisdiction of Vice-Admiralty Courts.

543 (*1q*). Act not to restrict existing jurisdiction.

543 (*1y*). Limits of jurisdiction.

543 (*1r*). Her Majesty may establish and alter rules and table of fees.

543 (*1s*). Rules and table of fees to be laid before House of Commons.

543 (*1t*). And to be entered in the records of the Court.
543 (*1u*). Copy to be hung up in Court.
543 (*1v*). Established fees to be the only fees taken.
543 (*1w*). Taxation may be revised by the High Court of Admiralty.
543 (*1x*). Registrar may administer oaths. Penalty for false swearing.
543 (*1y*). Hearing of cross-causes in respect of collisions.
543 (*1z*). Barrister and solicitors entitled to practise in Vice-Admiralty Courts.
543 (*2a*). Vice-Admiralty Acts of 1863, 1867, to extend to Courts in the Straits Settlements.
543 (*2b*). Power to establish Vice-Admiralty Courts in possessions having legislative powers. Jurisdiction of existing Courts confirmed.
543 (*2c*). Appeal.
543 (*2d*). Appeal to be made within six months.
543 (*2d*) (Note). } Repeal of 2 & 4 Wm. IV, c. 51, save as regards India.
543 (*2e*). 26 & 27 Vic., c. 24, s. 23, extended to appeals from Vice-Admiralty Courts in Indian possessions.
543 (*2f*). Power to make regulations and establish fees in Vice-Admiralty Courts abroad and alter the same. Regulations and fees to be enrolled in the respective Courts. Table of fees to be laid before the House of Commons.
543 (*2g*). Fees so established to be the only lawful fees.
543 (*2h*). Copies of regulations and table of fees to be hung up in each Court.
543 (*2i*). Persons aggrieved may apply to High Court of Admiralty for taxation of costs.
543 (*2j*). Vice-Admiralty Courts to have jurisdiction in certain maritime causes, though the cause of action did not arise within the local limits of the Court.
543 (*2k*). Acts of Surrogates appointed by Judges or by Governors of Plantations and Colonies shall be valid, &c.
543 (*2l*). Appeals from Courts of Admiralty or Vice-Admiralty abroad shall be made to the King in Council.

Slave Trade and its relation to the Admiralty Courts.

543 (*2m*). Purchase, sale and contract for slaves unlawful, and their removal, importation, and exportation. Fitting out vessels for these purposes unlawful. Serving on board slave vessels unlawful.
543 (*2n*). Penalty for exporting or importing slaves.
543 (*2o*). Ships fitted out for slave trade to be forfeited.
543 (*2p*). Penalty for shipping goods or effects to be employed in slave trade.
543 (*2q*). Subjects of Her Majesty dealing in slaves on high seas guilty of piracy.
543 (*2r*). Persons dealing in, or removing or exporting slaves, &c., or fitting out slave ships, or shipping goods to be employed in slave trade, or serving on board slave ships, or insuring slave adventures, or forging instruments relating to slave law, guilty of felony.
543 (*2s*). Seamen serving on board such ships guilty of misdemeanor.
543 (*2t*). Offenders giving information against owners of vessels to be exempted from penalties.
543 (*2u*). Limitation of suits for recovery of penalty. No limitation to suits for condemnation and forfeiture of slaves illegally imported.

Evidence taken abroad to be transmitted to England.

43 (*2v*). Evidence may be taken abroad, and transmitted to Court of Queen's Bench, on indictments for offences against slave laws.

543 (*2w*). Powers of High Court for purpose of obtaining evidence.
543 (*2x*). Subjects of certain Indian princes made amenable to certain Orders in Council.
543 (*2z*) (Note). } Saving of Orders in Council under 6 & 7 Vic., c. 94.

Seizure of Slave Ships.

543 (*2y*). Visitation and seizure by cruisers and of suspected slave ships.
543 (*2z*). Vessels equipped for traffic in slaves to be deemed engaged in slave trade.

Courts having jurisdiction over Slave matters.

543 (*3a*). Jurisdiction of Courts in regard to slave vessels, slaves, goods and effects.
543 (*3b*). Proceedings upon seizure by a foreigner.

Mixed Courts.

543 (*3c*). Appointment of judges, arbitrators, Secretary to mixed Courts and Commissions.
543 (*3d*). Regulations as to powers of mixed Courts.

Disposal of Vessels and Slaves.

543 (*3e*). Disposal of condemned vessels.
543 (*3f*). Disposal of slaves.

Bounty.

543 (*3g*). Bounty and other payments to seizors when British cruiser.
543 (*3h*). Bounty and other payments when vessel, slave, or goods not seized by cruiser.
543 (*3i*). Payment of proceeds of vessels when seized by foreign cruiser.
543 (*3j*). Regulations as to payment of bounty.
543 (*3k*). Payment by Treasury of costs, damages, and expenses.
543 (*3l*). Payment and distribution of bounties and other sums, 27 & 28 Vic., c. 24.

Miscellaneous.

543 (*3m.*) Protection of persons authorised to seize slavers.
543 (*3n*). Pendency of suit or decree a bar to proceeding for recovery of vessel, damages, &c.
543 (*3o*). Power of High Court of Admiralty of England as to bounties, reviewing and enforcing decrees.
543 (*3p*). Review of taxation by Registrar of Court of Admiralty.
543 (*3q*). Appeal by Treasury.
543 (*3r*). Prosecution for false evidence.
543 (*3s*). Returns by Registrars.
543 (*3t*). Incorporation with unrepealed portions of 5 Geo. IV, c. 113.
543 (*3u*). Recovery of forfeitures under 5 Geo. IV, c. 113.
543 (*3v*). Jurisdiction of Court over offences under 5 Geo. IV, c. 113.
543 (*3w*). Extension of 33 & 34 Vic., c. 52, to slave trade offences.
543 (*3w*) (Note). } Application of 36 & 37 Vic., c. 88.

Slave Trade on Coast of East Africa.

543 (*3x*). Jurisdiction of Courts in regard to slave vessels and goods, &c.
543 (*3y*). Amendment of 36 & 37 Vic., c. 59.
543 (*3z*). Appeal to Her Majesty in Council.

543 (*4a*). Making of rules and table of fees under 26 & 27 Vic., c. 24, ss. 14 to 18.
543 (*4b*). Application of Act to cases already adjudicated.
543 (*4c*). Extension of Act to future Treaties.
543 (*4d*). Amendment of 36 & 37 Vic., c. 59, s. 7, as to Treaties to which this Act applies.

Foreign Jurisdiction.

543 (*4e*). Powers acquired out of Her Majesty's dominions held on same terms as if acquired by conquest. Acts done in pursuance of such power to be of the same effect as if done under local law.
543 (*4f*). Courts authorised to procure evidence of existence of such power by application to Secretary of State.
543 (*4g*). Power to send persons charged with crimes in any such countries for trial to a British Colony. Before person shall be sent to any Colony for trial he may tender to the judge sending him any material evidence that he would be unable to produce on trial, which shall be taken down and transmitted to the Court of the Colony, and so much thereof shall be admitted as would have been admissible if the witness had been produced before the Court. In case the laws of the place in which the Act was committed vary from those of the Colony, the Court may give effect to them. Nothing herein to alter any law respecting trial within Her Majesty's dominions of crimes committed out of such dominions.
543 (*4g*) (Note). Definition of "British Colony."
543 (*4h*). Power to send persons convicted before any judge in such country to a British Colony for execution or imprisonment.
543 (*4i*). Power to transport convicts and to bring them to England for that purpose. Provision as to offenders convicted in Great Britain to apply to such convicts.
543 (*4j*). Validity of acts done under Order in Council under Foreign Jurisdiction Acts.
543 (*4k*). Power for Queen in Council to extend enactments in 1st Schedule.
543 (*4l*). Validity of orders made under Foreign Jurisdiction Acts, 6 & 7 Vic., c. 94; 28 & 29 Vic., c. 116; 29 & 30 Vic., c. 87, and 38 & 39 Vic., c. 85.
543 (*4m*). Extension of Foreign Jurisdiction Act over Her Majesty's subjects residing in countries without regular governments.
543 (*4n*). Jurisdiction over ships in Eastern seas.
543 (*4o*). Orders in Council to be laid before Parliament.
543 (*4p*). Provisions protecting persons acting under Foreign Jurisdiction Acts.

Jurisdiction over open Seas adjacent to Her Majesty's dominions.

543 (*4q*). Amendment of the law as to the jurisdiction of the Admiral.
543 (*4r*). Restrictions on institution of proceedings for punishment of offences.
543 (*4s*). Provisions as to procedure.
543 (*4t*). Saving as to jurisdiction.
543 (*4u*). Saving as to piracy.

PART XI.

Miscellaneous.

Lascars.

544. Contracts to be made with natives in India under certain conditions binding them to go to Australia, and thence to serve in other ships to the United Kingdom.

544*a*. Contracts may be made with natives in India under certain conditions binding them to go to the United Kingdom, and then to serve in other ships back to India or elsewhere.
544*b*. Relief of destitute lascars.
544*c*. Penalty on masters of ships leaving certain seamen in distress in this country.

Trading and Coasting Vessels.

544*d*. Governor of Fort William to make rules, &c., with respect to masters, &c., for lascars, &c., in ships trading under this Act.
544*e*. Such rules and regulations to be observed as if they formed part of the Act.
544*f*. Master of every ship to make out a list of lascars, &c., on board before such ship is admitted to entry.
544*g*. Penalty for breach of rules as to lascars.
544*h*. Convictions to be drawn up in the following form.
544*i*. Recovery of penalties.
544*j*. Lascars convicted of vagrancy to be shipped on board of a vessel bound to the place from whence they were brought.
544*k*. Proceedings not to be quashed for want of form.
544*l*. Limitation of actions, &c.
544*l*. (Note). } Treble costs.
544*m*. Company may supply all necessaries for distressed lascars brought to England and may recover expenses from owner.
544*m* (Note). } Saving of former enactments by 18 & 19 Vic., c. 91.

Coasting Trade in British Possessions.

544*n*. Regulations by the Governor General of India in Council as to the coasting trade of India.
544*o*. Regulation of coasting trade by Colonial legislature.
544*p*. Definition of "British possession" and "legislature" in 32 Vic., c. 11.

Coasting Vessels in Bombay.

544*q*. Rules as to coasting and other vessels belonging to the Queen's subjects.
544*q*. (Note). } Extent of Act XIX of 1838.
544*r*. Marking or branding vessels with name of place and number. Owner to paint name and number.
544*s*. Registry of name, number, and burthen. Registry by whom to be made. Fresh registration.
544*t*. Owners to apply for registry. Information of registry at subordinate port.
544*u*. Officers to perform duty of marking.
544*v*. Owner to obtain certificate of registry.
544*w*. Sealing certificate.
544*x*. Fees for certificates.
544*y*. Fees to be credited by Government.
544*z*. Production of certificate on demand.
544 (1*a*). Penalty for neglect to comply with rules. Recovery of penalties. Penalty on repetition of fault.
544 (1*b*). Power to direct compensation for trouble in seizing.

Freedom of Coasting Trade.

544 (*1c*). Freedom of ships other than British in coasting trade.
544 (*1d*). Power to regulate coasting trade.
544 (*1e*). Coasting vessels to deliver manifests and obtain port-clearance before leaving port of lading.
544 (*1f*). Delivery of manifest on arrival.
544 (*1g*). Departure from intermediate port.
544 (*1h*). Power to require bond before port-clearance is granted.
544 (*1i*). Discharge of cargo.
544 (*1j*). Goods on coasting vessels, if excisable, not to be unladen without permission.
544 (*1k*). Grant and revocation of general pass.
544 (*1l*). Rules respecting cargo-books to be kept by masters of coasting vessels.
544 (*1m*). Power to board and examine coasting vessels.
544 (*1n*). Power to declare places to be ports for coasting trade.

Load Lines on Coasting Vessels.

544 (*1o*). Marking of load lines on coasting vessels.
544 (*1p*). Annual statement as to position of load line.
544 (*1q*). Ship to be kept marked.
544 (*1r*). Marking of load lines in case of coasting vessels.
544 (*1s*). Penalty for offences in relation to marks on ships.
544 (*1t*). Offences and penalties as to coasting vessels.
545. Act not to affect Passengers Act of 1852 or 16 & 17 Vic., c. 84.
546. Corporations may grant site for sailors' homes.
547. Power of Colonial legislature to alter provision of Act.
548. Expenses incurred by Commissioners of Customs to be paid out of the consolidated customs.

Orders in Council.

548*a*. Effect of Order in Council.
548*b*. Power for Her Majesty in Council to apply certain provisions of Merchant Shipping Acts to foreign ships.
548*c*. Orders in Council may be limited as to time, and qualified.
548*d*. Orders in Council may be revoked and altered.
548*e*. Orders in Council to be published in *London Gazette*.
548*f*. Provision as to Order in Council.
548*g*. Publication and effect of Order in Council.

Bills of Lading.

548*h*. Rights under bills of lading to vest in consignee or endorsee.
548*i*. Not to affect right of stoppage *in transitu* or claim for freight.
548*j*. Bill of lading in hands of consignee conclusive evidence of the shipment as against the master. Proviso.
548*k*. Definition of "Bill of Lading."
548*l*. Stamp-duty payable on bill of lading.
548*m*. Exemption from duty of certain bills of lading.

Effect of Assignment of Bill of Lading.

548*n*. Cessation of right on assignment by buyer of bill of lading.
548*o*. Stoppage where bill of lading is pledged to secure specified advance.

Sea Customs.

548*p*. Interpretation clause. "Chief Customs authority" "Chief Customs officer." "Customs collector." "Customs port." "Foreign port." "Vessel." "Coasting vessel." "Master." "Warehousing port." "Warehouse."

548*p* (Note). Power to declare warehousing ports. Power to license private warehouses. Revocation of license.

548*q*. Stations for Customs officers to board and land.

Levy of, and exemption from, Customs Duties.

548*r*. Goods derelict and wreck.

548*s*. Country provisions and stores may be shipped free of duty.

ARRIVAL AND DEPARTURE OF VESSELS.

(*Arrival and Entry of Vessels Inwards.*)

548*t*. Power to fix place beyond which inward-bound vessels are not to proceed until manifest delivered. Delivery of manifest when vessel anchors below such place.

548*u*. Delivery of manifest where no place has been fixed.

548*v*. Signature and contents of manifest. Amendment of errors in manifest.

548*w*. When ship-agent may act for master.

548*x*. Duty of person receiving manifest.

548*y*. Bulk not to be broken till manifest delivered.

548*z*. Master if required to deliver bill of lading, &c., to Customs collector and answer questions.

548 (*1a*). Special pass for breaking bulk.

548 (*1b*). Manifest may be delivered by ship's agent.

Entry Outwards, Port-clearance, and Departure of Vessel.

548 (*1c*). Order for entry outwards to be obtained before export cargo is shipped.

548 (*1d*). No vessel to depart without port-clearance from any Custom port. No pilot to take charge without production of port-clearance.

548 (*1e*). Master on applying for port-clearance to deliver documents and answer questions.

548 (*1f*). Customs collector may refuse port-clearance.

548 (*1g*). Grant of port-clearance by Customs collector.

548 (*1h*). Customs collector may grant port-clearance on security of ship's agent.

General Provisions affecting Vessels in Port.

548 (*1i*). Customs collector may depute Customs officer to board ships.

548 (*1j*). Such officer and his servant to be received, and accommodation given him and his servant.

548 (*1k*). Officers of Customs to have free access to every part of ship, and may seal and secure goods. Power to authorise search and opening of locks.

548 (*1l*). Goods not to be shipped, discharged or water-borne, except in presence of officer of Customs.

548 (*1m*). Period allowed for discharge and shipment of cargo. Consequence of exceeding same. Allowance for period during which vessel is laid up.

548 (*1n*). Goods not to be landed on Sundays or holidays without permission of Customs collector, nor except within hours.

548 (*1o*). Goods not to be shipped except at wharves.
548 (*1p*). Power of chief Customs authority to exempt from ss. (548 *1l*) and (548 *1o*).
548 (*1q*). Boat note to be signed by master of vessel.
(Note to p. 574). Water-borne goods to be landed and shipped without delay. Water-borne goods not to be transhipped without permission. Power to prohibit plying of unlicensed cargo-boats. Issue of licenses and registration of cargo-boats.
548 (*1r*). Power to require goods to be weighed or measured on board before landing or after shipment.
548 (*1s*). Power to make rules regarding baggage and mails. Landing fees.

Discharge of Cargo and Entry Inwards.

548 (*1t*). Discharge of cargo may commence on receipt of permission.
548 (*1u*). Goods not to leave ship unless entered in manifest.
548 (*1v*). Procedure in case of goods not landed within time allowed.
548 (*1w*). Power to permit immediate discharge.
548 (*1w*) (Note). Power to land small parcels.
548 (*1x*). Procedure in case of goods not cleared or warehoused within four months after entry of vessel. Power to direct sale of perishable goods. Proviso.

Transhipment of Stores.

548 (*1y*). Transhipment of provisions and stores from one vessel to another of same owner without payment of duty.
548 (*1y*) (Note). Power to prohibit transhipment. No goods to be transhipped except as provided.

Exportation, Shipment, and Re-landing.

548 (*1z*). No goods to be shipped till entry outwards of vessel.
548 (*2a*). Clearance for shipment.
548 (*2a*) (Note). Owner to declare real value of goods in bill of entry or shipping bill.
548 (*2b*). Goods re-landed or transhipped from a vessel returning to port or putting into another port.
548 (*2c*). Vessel returning to port may enter and land goods under import rules.
548 (*2d*). Landing of cargo during repairs.

Procedure relating to Offences and Appeals.

548 (*2e*). Power of Custom-house officer to search vessel on reasonable suspicion.
548 (*2f*). Power to stop vessel and search for goods on reasonable suspicion.
548 (*2g*). Levy of penalty for failure to bring to.
548 (*2g*) (Note). Power to appoint stations at which ships shall bring to, for purposes of Customs officers.
548 (*2h*). Offences not specially provided for how tried.
548 (*2h*) (Note). Adjudication of confiscations and penalties.
548 (*2i*). Appeal from subordinate to chief Customs authority.
548 (*2j*). Revision by Local Government.

Offences and Penalties under Customs Acts.

548 (*2k*). Punishment for offences under ss. 548*t*, 548*u*, 548*v*, 548 (*1e*), 548 (*1f*), 548*x*, 548*z*, 548 (*1d*), 548 (*1j*), 548 (*1k*), 548 (*1l*), 548 (*1n*), 548 (*1u*), 548 (*2e*).

548 (*2l*). Packages and contents included in confiscation of goods, also conveyances used in removal. Tackle included in confiscation of vessel.
548 (*2m*). Persons reasonably suspected may be arrested.
548 (*2n*). Persons arrested to be taken before nearest magistrate or Customs collector.
548 (*2o*). Persons taken before magistrate may be detained or admitted to bail.
548 (*2p*). Persons escaping may be re-arrested.
548 (*2q*). When seizure or arrest is made, reason in writing to be given.
548 (*2r*). Penalty under Act not to interfere with punishment under any other law.
548 (*2s*). Rules to be notified.
548 (*2t*). Cancellation of notification.
548 (*2u*). Saving of Calcutta Port Commissioners and Bombay Port Trust Acts.

Customs Duties and Regulations as regards Prize of War.

548 (*2v*). Prize ships and goods liable to Customs duties and forfeiture if imported.
548 (*2w*). Regulations of Customs to be observed as to prize ships and goods.

Re-importation of Goods into British Territory.

548 (*2x*). Certificate to be obtained before re-importation and handed to master.
548 (*2y*). Goods to be delivered to collector of Customs by master of vessel.
548 (*2z*). Penalty on master failing to deliver to collector goods protected by certificate.

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33 Geo. III, c. 52, s. 156.	500.
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39 & 40 Geo. III, c. 79, ss. 2, 25.	502, 503.
53 Geo. III, c. 155, s. 110.	503.
56 Geo. III, c. 82, s. 1.	517.
4 Geo. IV, c. 80, ss. 25 to 34.	547 to 551.
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PRELIMINARY.

Preliminary.

1. THIS Act may be cited for all purposes as "The Merchant Shipping Act, 1854." Short title of Act.

2.[1] In the construction and for the purposes of this Act (if not inconsistent with the context or subject-matter) the following terms shall have the respective meanings hereinafter assigned to them; that is to say— Interpretation of certain terms in this Act.

"The Admiralty" shall mean the Lord High Admiral, or the Commissioners for executing his office:[2] "Admiralty."

"Admiralty," or "the Lords of the Admiralty," shall mean the Lord High Admiral for the time being of the United Kingdom of Great Britain and Ireland, and when there shall be no such Lord High Admiral in office, any two or more of the Commissioners for executing the office of Lord High Admiral of the United Kingdom.—[Naval Discipline Act, 1866, 29 & 30 Vic., c. 109, s. 86.]

The term "Admiralty" means the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 2.]

"Ammunition" includes also all articles specially designed for torpedo service and submarine mining, rockets, gun cotton, dynamite, lithofracteur and other explosive or fulminating material, gunflints, gunwads, percussion-caps, fuses and friction tubes, all parts of ammunition and all machinery for manufacturing ammunition, but does not include lead, sulphur, or saltpetre.—[Indian Arms Act, 1878—Act XI of 1878, s. 4.] "Ammunition."

"Arms" includes fire arms, bayonets, swords, daggers, spears, spearheads, and bows and arrows, also cannon and parts of arms, and machinery for manufacturing arms.—[Indian Arms Act, 1878—Act XI of 1878, s. 4.] "Arms."

"Bill of lading" means any instrument signed by the owner of a vessel or his agent, acknowledging the receipt of goods therein described, and undertaking to deliver the same at a place and to a person therein mentioned or indicated.—[Stamp Act, 1879—Act I of 1879, s. 3 (3).] "Bill of lading."

"The Board of Trade" shall mean the Lords of the Committee of Privy Council appointed for the consideration of matters relating to trade and foreign plantations: "Board of Trade."

[1] The definitions collected in this section govern the construction only of the Act in which they are contained and of any Act which is directed to be read as one with that Act. Where no reference is given to definitions they are taken from the Merchant Shipping Act, 1854.

[2] Similar definition in Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 2.

GENERAL SECRETARIAT

"British colony."

"British colony." In the Foreign Jurisdiction Act (that is to say, the Act of the session of the sixth and seventh years of Her Majesty's reign, chapter ninety-four, "to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's dominions and to render the same more effectual)" the term "British colony" includes and shall be construed to include any of Her Majesty's possession out of the United Kingdom—[Foreign Jurisdiction Amendment Act, 1865, 28 & 29 Vic., c. 116, s. 1.]

"British India."

The words "British India"[1] shall denote the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria, chap. 106, entitled "An Act for the better Government of India."—[Foreigners Act—Act III of 1864, s. 1.]

"British Indian ship."

In this chapter[2] "British Indian ship" means a ship registered under Act No. XIX of 1838, Act No. 10 of 1841, or Act No. XI of 1850, or under any other law passed by the Governor General in Council and for the time being in force for the registration of ships in India.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 4.]

"British possession."

"British possession" shall mean any colony, plantation, island, territory, or settlement within Her Majesty's dominions, and not within the "United Kingdom":

"British possession" means any territory or place situate within Her Majesty's dominions, and not forming part of the United Kingdom, or of the Channel Islands or Isle of Man; and all territories and places under one legislature as hereinafter defined are deemed to be one British possession for the purposes of this Act.—[Merchant Shipping (Colonial) Act, 1869, 32 Vic., c. 11, s. 2.]

"British possession" means any territory, colony, or place being part of Her Majesty's dominions, and not part of the United Kingdom, as defined by this Act.—[Foreign Enlistment Act, 1870, 33 & 34 Vic., c. 90, s. 30.]

The term "British possession" means any plantation, territory, settlement, or place situate within Her Majesty's dominions, and not forming part of the United Kingdom.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 2.]

"British possession" shall mean any colony, plantation, settlement, island, or territory being a part of Her Majesty's dominions, but not being within the limits of the United Kingdom of Great Britain and Ireland, or of Her Majesty's possessions in India.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 2.].

"British ship."

"British ship" includes a British Indian ship.[3]—[Merchant Shipping Act, 1880—Act VII of 1880, s. 4.]

"British Slave Court."

"British Slave Court" means the High Court of Admiralty of England,

[1] Similar definition in Indian Post Office Act, 1866.—Act XIV of 1866, s. 2.

[2] Chapter II of Act VII of 1880, ss. 3—53, see note to p. 491.

[3] This definition applies only to Chapter II of the Act, as to the sections in which see note to p. 491.

every Vice-Admiralty Court in Her Majesty's dominions out of the United Kingdom, and every East-African Court for the time being within the meaning of the Slave Trade East African Courts Act, 1873.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 2.]

"Building." "Building" in relation to a ship shall include the doing any act towards, or incidental to the construction of, a ship, and all words having relation to building shall be construed accordingly.—[Foreign Enlistment Act, 1870, 33 & 34 Vic., c. 90, s. 30.]

"Canada." "Canada." In the construction of the Merchant Shipping Act, 1854, and of the Act amending the same, Canada shall be deemed to be one British possession.—[Merchant Shipping (Colonial) Act, 1869, 32 Vic., c. 11, s. 7.]

"Cause." The word "cause" shall include any cause, suit, action, or other proceeding in any Vice-Admiralty Court.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 2.]

"Channel." The word "channel" shall include any river, canal, khal, nala, or waterway, whether natural or artificial.—[Canal Tolls Act, 1864—Ben: Act V of 1864, s. 1.]

"Chief Commissioner." "Chief Commissioner" means the Chief Commissioner of British Burma.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 2.]

"Chief Customs authority." "Chief Customs authority" denotes the person authorised to exercise, subject to the Local Government, the chief control in matters relating to Sea Customs in any place in which this Act operates.—[Sea Customs Act, 1887—Act VIII of 1878, s. 3 (*a*).]

"Chief Customs officer." "Chief Customs officer" denotes the chief executive officer of Sea Customs for any port to which this Act applies.—[Sea Customs Act, 1878—Act VIII of 1878, s. 3 (*b*).]

"Chief officer of Customs." The expression "chief officer of Customs" means the executive officer of highest rank in the Department of Customs in any port to which this Act applies.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 5.]

"Coasting vessel." "Coasting vessel" denotes any vessel proceeding from one Customs port to another Customs port, whether touching at any intermediate foreign port or not: or proceeding from or to a Customs port to or from a place declared to be a port under section 12.—[Sea Customs Act, 1878—Act VIII of 1878, s. 3 (*g*).]

For the purposes of this Act the word—

"Colony." "Colony" shall mean any island, plantation, colony, dominion, fort, or factory of Her Majesty, except any island within the United Kingdom, and the Islands of Man, Guernsey, Jersey, Alderney, and Sark, and the islands adjacent thereto, respectively.—[Admiralty Offences (Colonial) Act, 1849, 12 & 13 Vic., c. 96, s. 5.]

For the purposes of this Act the word—

"Colony" therein shall include and apply to every part and place heretofore under the Government of the East India Company, or which may be

under the Government of Her Majesty in India; and all the provisions of the said Act shall be construed and take effect accordingly.—[Admiralty Jurisdiction Act, 1860, 23 & 24 Vic., c. 88, s. 1.]

For the purposes of this Act—

The term "colony" shall not include any places within the United Kingdom, the Isle of Man, or the Channel Islands, but shall include such territories as may for the time being be vested in Her Majesty by virtue of an Act of Parliament for the Government of India, and any plantation, territory, or settlement situate elsewhere within Her Majesty's dominions, and subject to the same Local Government; and for the purposes of this Act, all plantations, territories, and settlements under a central legislature shall be deemed to be one colony under the same Local Government.—[The Courts (Colonial) Jurisdiction Act, 1874, 37 & 38 Vic., c. 27, s. 2.]

"Commissioner." The word "Commissioner" shall mean a member of the said corporation.—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 1.]

"Commissioners." The word "Commissioners" shall mean the Commissioners for making improvements in the Port of Calcutta.—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 1.]

"Commissioners" means the Commissioners appointed under this Act.—[Rangoon Port Commissioners Act, 1879—Act XV of 1879, s. 2.]

"Consular officer." "Consular officer" shall include Consul General, Consul, and Vice-Consul, and any person for the time being discharging the duties of Consul General, Consul, or Vice-Consul:

"Court of Admiralty." "Court of Admiralty" shall mean the High Court of Admiralty of England or Ireland, the Court of Sessions for Scotland, or any Vice-Admiralty Court within Her Majesty's dominions.—[Foreign Enlistment Act, 1870, 33 & 34 Vic., c. 90, s. 30.]

"Customs collector." "Customs collector" includes every officer of Customs for the time being in separate charge of a Custom-house, or duly authorised to perform all or any special duties of an officer so in charge.—[Sea Customs Act, 1878—Act VIII of 1878, s. 3 (c).]

"Customs collector" means a Customs collector appointed under the Sea Customs Act, 1878, and includes any person appointed by the Local Government by name or in virtue of his office to discharge the functions of a Customs collector under this Act at any port:—[Burma Coast Lights Act, 1879—Act IX of 1879, s. 3.]

"Customs port." "Customs port" means any place except Aden declared under section 11 to be a port for the shipment and landing of goods.—[Sea Customs Act, 1878—Act VIII of 1878, s. 3 (d).]

"Dangerous petroleum." "Dangerous petroleum" means petroleum having its flashing point below seventy-three degrees of Fahrenheit's thermometer.—[Petroleum Act, 1881—Act VIII of 1881, s. 3.]

"Dependent." "Dependent" means any woman (not being a labourer), any child, and any aged or incapacitated relative or friend accompanying any labourer with the

consent of a contractor, sub-contractor, recruiter, local agent, or garden sardar.—[Inland Emigration Act, 1882—Act I of 1882, s. 3.]

"Dock." "Dock" includes basins, locks, cuts, entrances, graving docks, graving blocks, inclined planes, patent slips, gridirons, quays, warehouses, and other works and things appertaining to any dock.—[Bombay Port Trust Act, 1879—Bom: Act VI of 1879, s. 3.]

"Drift." "Drift" shall be taken to mean all boats, timber, or other floating matter whether the same are, at the time they come into collision with the Madras pier, in possession or under the control of any person or not.—[Madras Pier Act, 1871—Mad: Act VII of 1871, s. 1.]

"East African Courts." "East African Courts" shall mean the Vice-Admiralty Courts at Aden, and any of Her Majesty's Consular officers within the dominions of the sovereigns of Zanzibar, Muscat, and Madagascar on whom jurisdiction in relation to vessels captured on suspicion of being engaged in the slave trade, or otherwise in relation to the slave trade, has been conferred by an Order in Council made before or after the passing of this Act.—[Slave Trade (East African Courts) Act, 1873, 36 & 37 Vic., c. 59, s. 2.][1]

"Emigrant." "Emigrant" means a person who emigrates within the meaning of the above definition.—[Straits Settlements Emigration Act, 1877—Act V of 1877, s. 2.]

"Emigrant" denotes any native of India under engagement to emigrate.—[Indian Emigration Act, 1871—Act VII of 1871, s. 3.]

"Emigrate." "Emigrate" denotes the departure of any native of India of the age of sixteen years or upwards (other than a native of a labour district) from any part of the territories administered by the Lieutenant-Governor of Bengal, not being a labour district, or from the territories respectively administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh, for the purpose of labouring for hire in a labour district otherwise than as a domestic servant.—[Inland Emigration Act, 1882—Act I of 1882, s. 3.]

"Emigrate" denotes the departure of any native of India out of British India for the purpose of labouring for hire in some other place.—[Indian Emigration Act, 1871—Act VII of 1871, s. 3.]

"Emigrate." "Emigrate" denotes the departure of any native of India out of the said territories under an engagement to labour in the said Settlements.—[Straits Settlements Emigration Act, 1877—Act V of 1877, s. 2.]

"Entry." The word "entry" shall mean the entry required by the Customs Laws to be made for the landing or discharge of goods from an importing ship.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 66.]

"Equipping." "Equipping" in relation to a ship shall include the furnishing a ship with any tackle, apparel, furniture, provisions, arms, ammunition, or stores, or

[1] Repealed by 42 & 43 Vic., c. 38, s. 2.

any other thing which is used in or about a ship for the purpose of fitting or adapting her for sea or for naval service, and all words relating to equipping shall be construed accordingly.—[Foreign Enlistment Act, 1870, 33 & 34 Vic., c. 90, s. 30.]

"Existing Slave Trade Treaty." "Existing Slave Trade Treaty" means a treaty made by or on behalf of Her Majesty or Her royal predecessors with any foreign state for the more effectual suppression of the slave trade and in force at the passing of this Act.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 2.]

"Existing East African Slave Treaty." "Existing East African Slave Trade Treaty" means a treaty made by or on behalf of Her Majesty with any foreign state in Arabia, or on the East Coast of Africa, or the shores of the Persian Gulf, or in any island lying off Arabia, or off such coast or shores, including the islands of Zanzibar and Madagascar, and the Comoro Islands, for the more effectual suppression of the slave trade and in force at the passing of this Act.—[Slave Trade (East African Courts) Act, 1873, 36 & 37 Vic., c. 59, s. 2.]

"Foreigner." "Foreigner" shall denote a person not being either a natural born subject of Her Majesty within the meaning of the Statute 3 and 4 Wm. IV, c. 85, s. 81, or a native of British India.—[Foreigners Act—Act III of 1864, s. 1.]

"Foreign-going ship." "Foreign-going ship" shall include every ship employed in trading or going between some place or places in the United Kingdom, and some place or places situate beyond the following limits; that is to say, the coasts of the United Kingdom, the Islands of Guernsey, Jersey, Sark, Alderney, and Man, and the Continent of Europe between the river Elbe and Brest inclusive.

The expression "foreign-going ship" shall include every ship employed in trading between any port of the said territories and any port or place not in the said territories nor on the Continent of India nor in the Island of Ceylon.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 118.]

"Foreign port." "Foreign port" means Aden and any place beyond the limits of British India.—[Sea Customs Act, 1878—Act VIII of 1878, s. 3 (*e*).]

"Foreign ship." "Foreign ship" means any ship which is not a British ship.—[Territorial Waters Jurisdiction Act, 1878, 41 & 42 Vic., c. 73, s. 1.]

"Foreign state." "Foreign state"[1] includes any foreign nation, people, tribe, sovereign, prince, chief, or headman.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 2.]

Gender. Words importing the masculine gender shall include females.[2]—[Foreigners Act—Act III of 1864, s. 1.]

Words importing the masculine gender shall include the feminine.—[Canal Tolls Act, 1864—Ben: Act V of 1864, s. 1.]

"Goods." The term "goods" includes all such things as are by the course of Admiralty

[1] Similar definition in Slave Trade (East African Courts) Act, 1873, 36 & 37 Vic., c. 59, s. 2.

[2] Similar definitions in Calcutta Police Act, 1866—Ben: Act IV of 1866, s. 3; also in Madras Pier Act, 1863—Mad: Act V of 1863, s. 16; also in the Andamans and Nicobar Regulation, 1876—Reg. III of 1876, s. 3; also in Merchant Seamen's Act, 1859—Act I of 1859, s. 118.

and law of nations the subject of adjudication as prize (other than ships).—[Naval Prize Act, 1864, 27 & 28 Vic., c. 25, s. 2.]

The word "goods" shall include every description of wares and merchandise.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 66.][1]

"Governor" includes the officer for the time being administering the government of any colony; and where there is a Local Governor or Lieutenant-Governor under a Governor General, means the Local Governor or Lieutenant-Governor.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 2.] "Governor."

"Governor," as respects India, means the Governor General, or the Governor of any presidency; and when a British possession consists of several constituent colonies, means the Governor General of the whole possession or of any of the constituent colonies; and as respects any other British possession, means the officer for the time being administering the government of such possession; also any person acting for or in the capacity of Governor shall be included under the term "Governor."—[Territorial Waters Jurisdiction Act, 1878, 41 & 42 Vic., c. 73, s. 7.][2]

"Governor" shall mean the officer for the time being lawfully administering the government of any British possession—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 2.]

"Governor" shall mean the officer for the time being administering the government of any colony.—[Admiralty Offences (Colonial) Act, 1849, 12 & 13 Vic., c. 96, s. 5.]

Expression "grain" means any corn, rice, paddy, pulse, seeds, nuts or nut kernel.—[Merchant Shipping (Carriage of Grain) Act, 1880, 43 & 44 Vic., c. 43, s. 10.] "Grain."

"Gunpowder" includes also rockets and other combustible ammunition.—[Indian Ports Act, 1875—Act XII of 1875, s. 4.] "Gunpowder."

"Harbour" means the artificial harbour at Madras and all the buildings, jetties, structures, moorings, and appliances now provided or which may hereafter be provided by the Government for the purposes of the said harbour.—[Madras Harbour Dues Act, 1882—Mad: Act VI of 1882, s. 2.] "Harbour."

"Health officer" the executive officer of health named in this Act shall be deemed to be the consulting officer of health named in Bom: Act VI of 1867.—[Bombay Municipal Act, 1872—Bom: Act III of 1872, s. 304.] "Health officer."

"Her Majesty" shall mean Her Majesty, Her heirs and successors.—[Vice-Admiralty Courts Act, 26 & 27 Vic., c. 24, s. 2.] "Her Majesty."

"Her Majesty's dominions" shall mean Her Majesty's dominions strictly so called, and all territories under the government of the East India Com- "Her Majesty's dominions."

[1] Similar definition in Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 1; also in Bombay Port Trust Act, 1879—Bom: Act VI of 1879, s. 3; also in Madras Harbour Dues Act, 1882—Mad: Act VI of 1882, s. 2.

[2] Similar definition in Foreign Enlistment Act, 1870, 33 & 34 Vic., c. 90, s. 30.

pany, and all other territories (if any) governed by any charter or license from the Crown or Parliament of the United Kingdom.

"High Court of Admiralty."

The term "High Court of Admiralty" means the High Court of Admiralty of England.—[Naval Prize Act, 1864, 27 & 28 Vic., c. 25, s. 2.]

"High-water mark."

"High-water mark" means the highest point reached by ordinary spring-tides at any season of the year.—[Indian Ports Act, 1875—Act XII of 1875, s. 5, Expl.]

"High-water mark" means a line drawn through the highest points reached by ordinary spring-tides at any season of the year.—[Rangoon Port Commissioners Act—Act XV of 1879, s. 2.]

"Home-trade passenger ship."

"Home-trade passenger ship" shall mean every home-trade ship employed in carrying passengers.

"Home-trade ship" shall include every ship employed in trading or going within the following limits; that is to say, the United Kingdom, the Islands of Guernsey, Jersey, Sark, Alderney, and Man, and the Continent of Europe between the river Elbe and Brest inclusive.

"Home-trade ship."

The expression "home-trade ship" shall include every ship employed in trading between any ports of the said territories, or between any port of the said territories and any port or place on the Continent of India or in the Island of Ceylon.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 118.]

"Import."

"Import" means to bring into British India by sea or land.—[Petroleum Act, 1881—Act VIII of 1881, s. 3.]

"Importation."

"Importation" means the bringing into British India as aforesaid.—[Petroleum Act, 1881—Act VIII of 1881, s. 3.]

"India."

The word "India" shall mean the territories which are or may become vested in Her Majesty by the Statute 21 & 22 Vic., c. 160, entitled "An Act for the better Government of India".—[Merchant Seamen's Act, 1859—Act I of 1859, s. 118.]

"Inland steam-vessel."

"Inland steam-vessel" in this Act means a steam-vessel of a burden exceeding one hundred tons engaged in the inland trade of Bengal, which in the course of its ordinary voyage traverses at any time of the year any part of the river Hooghly below the town of Calcutta.—[Inland Steam-Vessel—Ben: Act VII of 1879, s. 1.]

Interpretation in Contract Act.

"Interpretation of terms"—words defined in the Indian Contract Act, 1872, and used in this Act, shall have the meanings respectively assigned to them in that Act.—[Inland Emigration Act, 1882—Act I of 1882, s. 3.]

"Judge."

"Judge" shall mean the person lawfully appointed by the Admiralty to be Judge of any Vice-Admiralty Court, or in default of such appointment, the Chief Justice or principal judicial officer, or the person for the time being lawfully authorised to act as the Chief Justice or principal judicial officer, in the British possession in which such Court is established.—[Vice-Admiralty Courts Act Amendment Act, 1867, 30 & 31 Vic., c. 45, s. 3.]

"Judicial powers." shall mean all powers and authorities which may be lawfully exercised by, and all duties by law imposed upon, any such in the trial, hearing or progress of any cause.—[Vice-Admiralty Courts Act Amendment Act, 1867, 30 & 31 Vic., c. 45, s. 3.] "Judicial powers."

"Jurisdiction of the Admiral," as used in this Act, includes the jurisdiction of the Admiralty of England and Ireland, or either of such jurisdiction as used in any Act of Parliament, and for the purposes of arresting any person charged with an offence declared by this Act to be within the jurisdiction of the Admiral, the territorial waters adjacent to the United Kingdom, or any other part of Her Majesty's dominions, shall be deemed to be within the jurisdiction of any judge, magistrate, or officer having power within such United Kingdom, or other part of Her Majesty's dominion, to issue warrants for arresting or to arrest such persons charged with offences committed within the jurisdiction of such judge, magistrate, or officer.—[Territorial Waters Jurisdiction Act, 1878, 41 & 42 Vic., c. 73, s. 7.] "Jurisdiction of the Admiral."

"Land" includes the bed of the river below high-water mark, and also things attached to the earth or permanently fastened to anything attached to the earth.—[Rangoon Port Commissioners Act, 1879—Act XV of 1879, s. 2.] "Land."

"Land" includes the bed of the sea below high-water mark.—[Bombay Port Trust Act, 1879—Bom: Act VI of 1879 s. 3].

The word "land" shall include the bed of the river below high-water mark.—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 1.]

The word "landing place" includes a bandar, wharf, pier, jetty, hard, and any place used for the landing, shipping, wharfage, cranage, or storage of goods.—[Karachi Landing and Wharfage Fees Act, 1879—Bom: Act III of 1879, s. 2.]

The term "legislature" includes any person or persons who exercise legislative authority in the British possession, and where there are local legislatures as well as a central legislature, means the central legislature only.—[Merchant Shipping (Colonial) Act, 1869, 32 Vic., c. 11, s. 2.] "Legislature."

"Light-houses" shall, in addition to the ordinary meaning of the word, include floating and other lights exhibited for the guidance of ships, and "buoys and beacons" shall include all other marks and signs of the sea. "Light-houses."

The term "limits of the East India Company Charter" shall for all purposes of this Act be construed to mean all places and seas eastward of the Cape of Good Hope to the Straits of Magellan.—[3 & 4 Vic., c. 56, s. 9.] "Limits of the East India Company Charter."

The words "line of navigation" shall mean any navigable channel subject to the provisions of this Act.—[Canal Tolls Act, 1864—Ben: Act V of 1864, s. 1.] "Line of navigation."

"Local authority."

"Local authority" means such person as the Local Government may from time to time, subject to the control of the Governor-General in Council, appoint by name or in virtue of his office to exercise the powers conferred and to perform the duties imposed on the local authority under this chapter.[1]—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 54.]

"Local Government."

The expression "Local Government" shall mean the person or persons for the time being immediately administering the executive government of any portion of the said territories.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 118.]

"Local Government" shall denote the persons authorised to administer the executive government in any part of British India or the chief executive officer of any part of British India under the immediate administration of the Governor General of India in Council, when such chief executive officer shall, by an order of the Governor General of India in Council published in the *Gazette of India*, be authorised to execute the powers vested by this Act in a Local Government.—[Foreigners Act—Act III of 1864, s. 1.]

"Low-water mark."

"Low-water mark" means the lowest point reached by ordinary ebb spring-tides at any season of the year.—[Rangoon Port Commissioners Act, 1879—Act XV of 1879, s. 2.]

"Magistrate of the district."

The words "magistrate of the district" shall denote the chief officer charged with the executive administration of a district and exercising the powers of a magistrate, by whatever designation the chief officer charged with the executive administration is styled, or, in the absence of such officer from the station at which his court is usually held, the senior officer at the station exercising the powers of a magistrate as defined in the Code of Criminal Procedure.—[Foreigners Act—Act III of 1864, s. 1.]

"Magistrate."

"Magistrate" denotes any officer exercising the full powers of a magistrate and in charge of a district, a division, or a sub-division.—[Emigration Act, 1871—Act VII of 1871, s. 3.]

In Parts III and V of this Act "magistrate" means, within the limits of the towns of Calcutta, Madras, and Bombay, a magistrate of Police, and, outside those limits, a person exercising powers under the Code of Criminal Procedure not less than those of a magistrate of the second class.—[European Vagrancy Act, 1874—Act IX of 1874, s. 3.]

"Magistrate" means a person exercising powers under the Code of Criminal Procedure not less than those of a magistrate of the second class, and includes, in the towns of Calcutta, Madras, and Bombay, a magistrate of Police.—[Indian Ports Act, 1875, Act XII of 1875, s. 4.]

The expression "magistrate" means a person exercising powers not inferior to those of a magistrate of the second class, and includes a justice of

[1] Chapter III, s. 213c to s. 213e.

the peace, and, at the Port of Aden, the Political Resident and his Assistants.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 5.]

"Magistrate" means a magistrate of a district, a magistrate of a division of a district, or any other person appointed by the Governor of Fort Saint George in Council to perform the functions of a magistrate under this Act.—[Straits Settlements Emigration Act, 1877—Act V of 1877, s. 2.]

"Magistrate" means a magistrate of a district, sub-divisional magistrate, and any other person appointed, by name or by virtue of his office, by the Local Government to perform the functions of a magistrate under this Act.—[Inland Emigration Act, 1882—Act I of 1882, s. 3.]

"Magistrate" shall mean any magistrate of Police acting for the said town.—[Calcutta Police Act, 1866—Ben: Act IV of 1866, s. 3.]

"Magistrate" includes any officer exercising any of the powers of a magistrate under the Code of Criminal Procedure, and any magistrate of Police for the town of Calcutta.—[Ships in Port—Ben: Act III of 1867, s. 1.]

"Magistrate" shall include a magistrate of the Town Police.—[Madras Pier Act, 1871—Mad: Act VII of 1871, s. 1.]

"Manner prescribed." "Manner prescribed" means such manner as the Local Government, with the previous sanction of the Governor General in Council, may, from time to time, by rules published in the official Gazette, prescribe.[1]—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 4.]

"Master of a ship." "Master of a ship" includes any person in charge of a decked vessel.—[European Vagrancy Act, 1874—Act IX of 1874, s. 3.]

"Master." "Master"[2] shall include every person (except a pilot) having command or charge of any ship.

"Master" shall include any person having the charge or command of a ship.—[Foreign Enlistment Act, 1870, 33 & 34 Vic., c. 90, s. 30.]

"Master," "owner," "person," "he."—In this Act the words "master," "owner," "person," and the pronoun "he" shall be understood to include several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless there is something in the context repugnant to such construction.—[Binding Apprentices—Act XIX of 1850, s. 25.]

"Master,"[3] when used in relation to any vessel, means any person (except a pilot or harbour master) having for the time being the charge or control of such vessel.—[Indian Ports Act, 1875—Act XII of 1875, s. 4.]

[1] This definition applies only to Chapter II of the Act, for the sections in which see footnote to p. 491.

[2] Similar definition in Native Passenger Ships Act, 1876—Act VIII of 1876, s. 5; also in Indian Merchant Shipping Act, 1883—Act V of 1883, s. 3; also in Merchant Shipping Act, 1859—Act I of 1859, s. 118.

[3] Similar definition in Burma Coast Lights Act, 1879—Act IX of 1879, s. 3; also in Rangoon Port Commissioners Act—Act XV of 1879, s. 2; also in Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 4; and in Bombay Port Trust Act, 1879—Bom: Act VI of 1879, s. 3, omitting the words in brackets.

"Master," when used in relation to any vessel, means any person, except a pilot or harbour master, having command or charge of such vessel.—[Sea Customs Act, 1878—Act VIII of 1878, s. 3 (*h*).]

"Master" means the person for the time being in charge of a vessel.—[Inland Emigration Act—Act I of 1882, s. 3.]

The word "master" denotes any person having temporary or permanent command or charge of any vessel otherwise than in the capacity of pilot or harbour master.—[Ships in Port—Ben: Act III of 1867, s. 1.]

"Master" includes every person in charge of a ship.—[Andaman and Nicobar Regulation, 1876—Reg. III of 1876, s. 3.]

"Master" includes any person in charge of a native boat.—[Re-importation of Goods into British Territory—Act XXIII of 1872, s. 1.]

"Ministerial powers" shall mean all powers and authorities which may be lawfully exercised by, and all duties by law imposed upon, any such judge not included under the term "judicial powers."—[Vice-Admiralty Courts Act Amendment Act, 1867, 30 & 31 Vic., c. 45, s. 3.]

"Naval service" shall, as respects a person, include service as a marine, employment as a pilot in piloting or directing the course of a ship of war or other ship when such ship of war or other ship is being used in any military or naval operation, and any employment whatever on board a ship of war, transport, store ship, privateer or ship under letters of marque; and as respects a ship, include any user of a ship as a transport, store ship, privateer or ship under letters of marque—[Foreign Enlistment Act, 1870, 33 & 34 Vic., c. 90, s. 30.]

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.[1]—[Foreigners Act—Act III of 1864, s. 1.]

"Number, gender, and person."—And be it enacted that wherever this or any other Statute relating to any offence, whether punishable upon indictment or summary conviction, in describing or referring to the offence or the subject-matter thereof, or the offender, or the party affected or intended to be affected by the offence, shall use the words importing the singular number or the masculine gender only, yet the Statute shall be understood to include several matters as well as one matter, and several persons as well as one person and females as well as males, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and wherever any forfeiture or penalty is payable to a party aggrieved, it shall be payable to a body corporate in every case where such body shall be the person aggrieved.—[9, Geo. IV, c. 74, s. 26.]

[1] Similar definition in Canal Tolls Act, 1864—Ben: Act V of 1864, s. 1; also in Calcutta Police Act, 1866—Ben. Act IV of 1866, s. 2; also in Ships in Port Act, 1867—Ben: Act III of 1867, s. 1; also in Madras Pier Act, 1863—Mad: Act V of 1863, s. 16; also in Andamans and Nicobar Reg., 1876—Reg. III of 1876, s. 3; also in Merchant Seamen's Act, 1859—Act I of 1859, s. 118.

"Number, gender, person." Words importing the singular number or masculine gender shall include several persons as well as one person, and bodies corporate as well as individuals, and several matters and things as well as one matter or thing, and females as well as males.—[Registry of Vessels on the Indus—Bom: Act I of 1863, s. 18.]

"Offence," as used in this Act, means an act, neglect, or default of such a description as would if committed within the body of a county in England be punishable on indictment according to the law of England for the time being in force.—[Territorial Waters Jurisdiction Act, 1878, 41 & 42 Vic., c. 73, s. 7.]

"Officer" shall mean an officer belonging to one of Her Majesty's ships, and shall include a subordinate and a warrant officer, but shall not extend to petty and non-commissioned officers—[Naval Discipline Act, 1866, 29 & 30 Vic., c. 109, s. 86.] "Officer."

"Officers and crew" includes flag officers, commanders and other officers, engineers, seamen and mariners, soldiers and others on board any of Her Majesty's ships of war.—[Naval Prize Act, 1864, 27 & 28 Vic., c. 25, s. 2.]

"Owner"[1] includes also any agent to whom a vessel is consigned.—[Indian Ports Act, 1875—Act XII of 1875, s. 4.] "Owner."

The word "owner" includes any agent acting for and on behalf of the owner of a ship at the port at which such ship shall lie or be.—[Ships in Port—Ben: Act III of 1867, s. 1.]

Word "owner" shall include consignee.—[Madras Pier Act, 1871—Mad: Act VII of 1871, s. 1.]

The expression "owner of goods" shall include every person who is for the time being entitled, either as owner or agent for the owner, to the possession of the goods, subject, in the case of a lien, if any, to such lien.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 66.] "Owner of goods."

"Owner" when used in relation to goods includes any consignor, consignee, shipper, or agent for the sale or custody of such goods; and when used in relation to any vessel, includes any part owner, charterer, consignee, or mortgagee in possession thereof.—[Bombay Port Trust Act, 1879—Bom: Act VI of 1879, s. 3.]

"Owner" when used in relation to goods includes any consignor, consignee, shipper, or agent for the sale, custody, landing, or shipping of such goods.—[Madras Harbour Dues Act, 1882—Mad: Act VI of 1882, s. 2.]

The expression "passenger" means a person above the age of twelve years, or two persons between the ages of one year and twelve years; but it does not include a person in attendance on another person who is not a native of Asia or Africa, nor a child under one year of age.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 4.] "Passenger."

[1] Similar definition in Rangoon Port Commissioners Act, 1879—Act XV of 1879, s. 2.

For the purpose of the enactments herein contained with respect to surveys and certificates of passenger steam-ships the word "passengers" shall be held to include any person carried in a steam-ship, other than the master and crew, and the owner, his family, and servants.

"Passenger steamer."

"Passenger steamer" shall be held to include every British ship carrying passengers to, from, or between any place or places in the United Kingdom, excepting steam ferry boats working in chains, commonly called steam bridges.

"Person of European extraction."

"Person" shall include body corporate.

"Person of European extraction" includes—

(*a*) persons born in Europe, America, the West Indies, Australia, Tasmania, New Zealand, Natal, or the Cape Colony;

(*b*) the sons and grandsons of such persons, but does not include persons commonly called Eurasians or East Indians.

[European Vagrancy Act, 1874, Act IX of 1874, s. 3.]

"Person."

The word "person" shall include any company, association, or body of persons whether incorporated or not.—[Canal Tolls Act, 1864—Ben: Act V of 1864, s. 1.]

The word "person" shall include a corporation.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 118.]

"Petroleum."

"Petroleum" includes also the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, kerosine, paraffine oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine, and any inflammable liquid that is made from petroleum, local, schist, shale, peat, or any other bituminous substance, or from any products of petroleum, but it does not include oil ordinarily used for lubricating purposes, and having its flashing point at or above two hundred and fifty degrees of Fahrenheit's thermometer.

Explanation.—The flashing point of petroleum means the lowest temperature at which the petroleum yields a vapour which will furnish a momentary flash or flame when tested with the apparatus described in the schedule[1] hereto annexed.—[Petroleum Act, 1881—Act VIII of 1881, s. 3.]

The following is a description of the details of the apparatus:—

The oil-cup consists of a cylindrical vessel 2" diameter, $2\frac{3}{16}$" height (internal), with outward projecting rim $\frac{1}{16}$" wide, $\frac{3}{8}$" from the top and $1\frac{1}{8}$" from the bottom of the cup. It is made of gun-metal or brass (17 B. W. G.), tinned inside. A bracket, consisting of a short stout piece of wire, bent upwards and terminating in a point, is fixed to the inside of the cup to serve as gauge. The distance of the point from the bottom of the cup is $1\frac{1}{2}$". The cup is provided with a close-fitting overlapping cover made of brass (22 B. W. G.) which carries the thermometer and test-lamp. The latter is suspended from two supports from the side by means of trunnions, upon which it may be made to oscillate: it is provided with a spout the mouth of which is $\frac{1}{16}$" in diameter. The socket which is to hold the thermometer is fixed at such an angle, and its length is so adjusted, that the bulb of the thermometer, when inserted to its full depth, shall be $1\frac{1}{8}$" below the centre of the lid.

The cover is provided with three square holes, one in the centre $\frac{5}{16}$" by $\frac{5}{16}$", and two smaller ones, $\frac{3}{16}$" by $\frac{3}{16}$", close to the sides and opposite each other. These three holes may be closed and

[1] Schedule to Petroleum Act (referred to in s. 3, Petroleum Act).

uncovered by means of a slide moving in grooves, and having perforations corresponding to those on the lid.

In moving the slide so as to uncover the holes, the oscillating lamp is caught by a pin fixed in the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. Upon the slide being pushed back so as to cover the holes, the lamp returns to its original position.

Upon the cover, in front of, and in line with, the mouth of the lamp, is fixed a white bead, the dimensions of which represent the size of the test flame to be used.

The bath or heated vessel consists of two flat-bottomed copper cylinders (24 B. W. G.), an inner one of 3″ diameter and 2⅛″ height, and an outer one of 5½″ diameter and 5¾″ height; they are soldered to a circular copper plate (20 B. W. G.) perforated in the centre, which forms the top of the bath, in such a manner as to enclose the space between the two cylinders, but leaving access to the inner cylinder. The top of the bath projects both outwards and inwards about ⅜″, that is, its diameter is about ¾″ greater than that of the body of the bath, while the diameter of the circular opening in the centre is about the same amount less than that of the inner copper cylinder. To the inner projection of the top is fastened, by six small screws, a flat ring of ebonite, the screws being sunk below the surface of the ebonite to avoid metallic contract between the bath and the oil-cup. The exact distance between the sides and bottom of the bath of the oil-lamp is 1¼″. A split socket similar to that on the cover of the oil-cup, but set at a right angle, allows a thermometer to be inserted into the space between the two cylinders. The bath is further provided with a funnel, an overflow pipe, and two loop handles.

The bath rests upon a cast-iron tripod stand, to the ring of which is attached a copper cylinder or jacket (24 B. W. G.), flanged at the top, and of such dimensions that the bath, while firmly resting on the iron ring, just touches with its projecting top the inward-turned flange. The diameter of this outer jacket is 6¼″. One of the three legs of the stand serves as support for the spirit-lamp, attached to it by means of a small swing bracket. The distance of the wick-holder from the bottom of the bath is 1″.

Two thermometers are provided with the apparatus, the one for ascertaining the temperature of the bath, the other for determining the flashing-point. The thermometer for ascertaining the temperature of the water has a long bulb and a space at the top. Its range is from about 90° to 190° Fahrenheit. The scale (in degrees of Fahrenheit) is marked on an ivory back fastened to the tube in the usual way; it is fitted with a metal collar fitting the socket, and the part of the tube below the scale should have a length of about 3½″ measured from the lower end of the scale to the end of the bulb. The thermometer for ascertaining the temperature of the oil is fitted with collar and ivory scale in a similar manner to the one described. It has a round bulb, a space at the top, and ranges from about 55° F. to 150° F.; it measures from end of ivory back to bulb 2¼″.

NOTE.—A model apparatus is deposited at the office of the Chemical Examiner to Government at Calcutta.

Directions for applying the Test.

1. The test-apparatus is to be placed for use in a position where it is not exposed to currents of air or draughts.

2. The heating vessel or water-bath is filled by pouring water into the funnel until it begins to flow out at the spout of the vessel. The temperature of the water at the commencement of the test is to be 180° Fahrenheit, and this is attained in the first instance either by mixing hot and cold water in the bath, or in a vessel from which the bath is filled, until the thermometer which is provided for testing the temperature of the water gives the proper indication; or by heating the water with the spirit-lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

If the water has been heated too highly, it is easily reduced to 180° by pouring in cold water little by little (to replace a portion of the warm water) until the thermometer gives the proper reading.

When a test has been completed, this water-bath is again raised to 130° by placing the lamp underneath, and the result is readily obtained while the petroleum cup is being emptied, cooled, and refilled with a fresh sample to be tested. The lamp is then turned on its swivel from under the apparatus, and the next test is proceeded with.

3. The test-lamp is prepared for use by fitting it with a piece of flat plaited candlewick, and filling it with colza or rape-oil up to the lower edge of the opening of the spout or wick-tube. The lamp is trimmed so that when lighted it gives a flame of about 0·15 of an inch diameter, and this size of flame, which is represented by the projecting white bead on the cover of the oil-cup, is readily maintained by simple manipulation from time to time with a small wire trimmer.

When gas is available it may be conveniently used in place of the little oil-lamp, and for this purpose a test-flame arrangement for use with gas may be substituted for the lamp.

4. The bath having been raised to the proper temperature, the oil to be tested is introduced into the petroleum cup, being poured in slowly until the level of the liquid just reaches the point of the gauge which is fixed in the cup. In warm weather the temperature of the room in which the samples to be tested have been kept should be observed in the first instance, and, if it exceeds 65°, the samples to be tested should be cooled down (to about 60°) by immersing the bottle containing them in cold water, or by any other convenient method. The lid of the cup, with the slide closed, is then put on, and the cup is put into the bath or heating vessel. The thermometer in the lid of the cup has been adjusted so as to have its bulb just immersed in the liquid, and its position is not under any circumstances to be altered. When the cup has been placed in the proper position, the scale of the thermometer faces the operator.

5. The test-lamp is then placed in position upon the lid of the cup, the lead line or pendulum,[1] which has been fixed in a convenient position in front of the operator, is set in motion, and the rise of the thermometer in the petroleum cup is watched. When the temperature has reached about 66°, the operation of testing is to be commenced, the test-flame being applied once for every rise of one degree in the following manner:—

The slide is slowly drawn open while the pendulum performs three oscillations, and is closed during the fourth oscillation.

NOTE.—If it is desired to employ the test-apparatus to determine the flashing-points of oils of very low volatility, the mode of proceeding is to be modified as follows:—

The air-chamber which surrounds the cup is filled with cold water to a depth of 1½ inches, and the heating vessel or water-bath is filled as usual, but also with cold water. The lamp is then placed under the apparatus and kept there during the entire operation. If a very heavy oil is being dealt with, the operation may be commenced with water previously heated to 120°, instead of with cold water.

The word "pier" shall include a floating pier.—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 1.]

"Pier."

"Pier" includes any stage, stairs, landing place, hard, jetty, landing stage, floating barge or pontoon, and any bridges or other works connected therewith.—[Bombay Port Trust Act, 1879—Bom: Act VI of 1879, s. 3.]

"Pilotage authority."

"Pilotage authority" shall include all bodies and persons authorised to appoint or license pilots, or to fix or to alter rates of pilotage, or to exercise any jurisdiction in respect of pilotage:

"Pilot."

"Pilot" shall mean any person not belonging to a ship who has the conduct thereof:

"Pilot"[2] means a person for the time being authorised by the Local Government to pilot vessels.—[Indian Ports Act, 1875—Act XII of 1875, s. 4.]

"Political Agent."

"Political Agent" denotes any officer appointed by the Governor General of India in Council to reside as representative of the British Government at

[1] This pendulum is two feet in length from the point of suspension to the centre of gravity of the weight.

[2] Similar definition in Rangoon Port Commissioners Act, 1879—Act XV of 1879, s. 2.

Mandalay, Bhamo, or any other town within the territories of the King of Ava.—[Re-importation of Goods into British Territory—Act XXIII of 1872, s. 1.]

"Port of Dublin Corporation" shall mean the corporation for preserving and improving the Port of Dublin. "Port of Dublin Corporation."

"Port" includes also any part of a river or channel in which this Act is for the time being in force.—[Indian Ports Act, 1875—Act XII of 1875, s. 4.] "Port."

"Port" means the Port of Rangoon as defined for the purposes of this Act.—[Rangoon Port Commissioners Act, 1879—Act XV of 1879, s. 2.]

"Port" in any provision of this Act includes also any part of a river or channel leading to a port which for the purposes of such provision the Local Government may, from time to time, by notification in the official Gazette, declare to be included in such port.—[Indian Merchant Shipping Act, 1880—Act VII of 1880. s. 2.]

The word "port" denotes any port within the provinces aforesaid[1] subject to the provision of the Indian Ports Act, 1875.—[Ships in Port—Ben: Act III of 1867, s. 1.]

The word "port" shall mean the Port of Calcutta.—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 1.]

The word "port" means the Port of Bombay within such limits as may, from time to time, be defined by Government for the purposes of this Act, by notification in the *Bombay Government Gazette*; and until a notification is so issued, within such limits as may have been defined by Government under section 73 of the Bombay Port Trust Act, 1873, for the purpose of that Act.—[Bombay Port Trust Act, 1879—Bom: Act VI of 1879, s. 3.]

"Port" means the Port of Madras within such limits as may, from time to time, be defined by the Government for the purposes of this Act by notification in the *Fort St. George Gazette* and until a notification is so issued within such limits as may have been defined by the Government under the provisions of Act XII of 1875 (The Indian Ports Act).—[The Madras Harbour Dues Act, 1882—Mad: Act VI of 1882, s. 2.]

"Port" means any port, or any part of a navigable river or channel, in which the Indian Ports Act, 1875, is for the time being in force.—[British Burma Pilots Act, 1883—Act XII of 1883, s. 2.]

"Qualified pilot" shall mean any person duly licensed by any pilotage authority to conduct ships to which he does not belong. "Qualified pilot."

"Receiver" shall mean any person appointed in pursuance of this Act receiver of wreck.

The word "report" shall mean the report required by the Customs Laws to be made by the master of any importing ship.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 66.]. "Report."

"River" means any flowing water within a radius of eight statute-miles from "River."

[1] Provinces under the control of the Lieutenant Governor of Bengal.

Soolay Pagoda wharf navigable by vessels, and includes the bank up to high-water mark.—[Rangoon Port Commissioners Act, 1879—Act XV of 1879, s. 2.]

"Salvor."

"Salvor" shall, in the case of salvage services rendered by the officers or crew or part of the crew of any ship belonging to Her Majesty, mean the person in command of such ship.

"Savings bank."

"Savings bank" for the purposes of the section means a savings bank established under one of the Acts mentioned in the first schedule to the Act.—[Merchant Shipping (Payment of Wages and Rating) Act, 1880, 43 & 44 Vic., c. 16, s. 3 (cl. 5).]

"Seaman."

"Seaman" shall include every person (except masters, pilots, and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship.

In this Act "seaman" includes every person (except masters, pilots, and apprentices duly indentured and registered) employed or engaged in any capacity to serve at sea for the purposes of any ship.—[Indian Merchant Seamen's Act, 1876—Act XIII of 1876, s. 2.]

The word "seaman" shall include every person (except masters, pilots, and apprentices) employed or engaged in any capacity on board any ship.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 118.]

"Seasons of fair and foul weather."

The Governor General in Council may from time to time declare, by notification in the *Gazette of India*, what shall be deemed to be, for the purposes of this Act, "seasons of fair weather" and "seasons of foul weather," and for sailing vessels and steamers respectively, a "long voyage" and a "short voyage."—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 48.]

"Secretary of State."

"The Secretary of State" shall mean any one of Her Majesty's Principal Secretaries of State.—[Foreign Enlistment Act, 1870, 33 & 34 Vic., c. 90, s. 30.]

"Ship."[1]

"Ship" shall include every description of vessel used in navigation not propelled by oars.

"Ship."

"Ship" shall include every description of ship used in navigation not propelled by oars only, whether British or foreign.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 2.]

"Ship" includes vessel and boat, with the tackle, furniture, and apparel of the ship, vessel, or boat.—[Naval Prize Act, 1864, 27 & 28 Vic., c. 25, s. 2.]

"Ship" shall include any description of boat, vessel, floating battery, or floating craft; also any description of boat, vessel, or other craft or battery, made to move either on the surface of or under water, or sometimes on the surface of and sometimes under water.—[Foreign Enlistment Act, 1870, 33 & 34 Vic., c. 90, s. 30.]

[1] Similar definition in Native Passenger Ships Act, 1876—Act VIII of 1876, s. 5; also in Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 2.

"Ship" includes every description of ship, boat, or other floating craft.—[Territorial Waters Jurisdiction Act, 1878, 41 & 42 Vic., c. 73, s. 7.]

"Shares in ships" registered under the said Merchant Shipping Act, 1854, shall be deemed to be included in the word "stock" as defined by the Trustee Act, 1850; and the provisions of such last-mentioned Act shall be applicable to such shares accordingly.—[Merchant Shipping Act Amendment Act, 1855, 18 & 19 Vic., c. 91, s. 10.] "Shares in ships."

Expression "ship laden with grain cargo" means a ship carrying a cargo of which the portion consisting of grain is more than one-third of the registered tonnage of the ship, and such third shall be computed where the grain is reckoned in measures of capacity, at the rate of one hundred cubic feet for each ton of registered tonnage, and where the grain is reckoned in measures of weight, at the rate of two tons weight for each ton of registered tonnage.—[Merchant Shipping (Carriage of Grain) Act, 1880, 43 & 44 Vic., c. 43, s. 10.] "Ship laden with grain cargo."

The word "ship-owner" shall include the master of the ship and every other person authorised to act as agent for the owner, or entitled to receive the freight, demurrage, or other charges payable in respect of such ship. [Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 66.] "Ship-owner."

"Sit or sitting" shall mean sit or sitting for the exercise of judicial powers, whether in court or in chambers.—[Vice-Admiralty Courts Act Amendment Act, 1867, 30 & 31 Vic., c. 45, s. 3.] "Sit or sitting."

The term "Slave Court" means every British Slave Court, every mixed commission or court established under any existing slave trade treaty, and the court of any foreign state having jurisdiction to try and condemn a vessel engaged in the slave trade.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 2.] "Slave Court."

The term "slave trade Act, 1824," means the Act of the session of the fifth year of the reign of King George IV, chapter one hundred and thirteen, intituled "An Act to amend and consolidate the laws relating to the abolition of the slave trade."—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 2.] "Slave Trade Act, 1824."

The term "slave trade" when used in relation to any particular treaty does not include any thing declared by such treaty not to be comprised in the term or in such treaty.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 2.] "Slave trade."

"Stock" shall mean any fund, annuity, or security transferable in books kept by any company or society established or to be established, or transferable by deed alone, or by deed accompanied by any other formalities, and any share or interest therein. It shall also include shares in ships registered under the Merchant Shipping Act, 1854, or at any port in British India.—[Indian Trustees Act, 1866—Act XXVII of 1866, s. 2.] "Stock."

"Surveyors."

"Surveyors"[1] include any surveyor acting alone when authorised by the Chief Commissioner under this Act.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 2.]

"Survey."

When the "survey" of any steam-vessel is contemplated by any part of this Act, such survey shall be held to include a survey of such vessels, hull, rigging, machinery, boats, equipment, and other appurtenances.—[Survey of Steamers Act, 1864—Bom: Act II of 1864, s. 17.]

"Territorial waters of Her Majesty's dominions."

"Territorial waters of Her Majesty's dominions" in reference to the sea mean such part of the sea adjacent to the coast of the United Kingdom or the coast of some other part of Her Majesty's dominions, as is deemed by international law to be within the territorial sovereignty of Her Majesty; and for the purpose of any offence declared by this Act to be within the jurisdiction of the Admiral, any part of the open sea within one marine league of the coast measured from low-water mark shall be deemed to be open sea within the territorial waters of Her Majesty's dominions.—[Territorial Waters Jurisdiction Act, 1878, 41 & 42 Vic., c. 73, s. 7.]

"Transport."

"Transport" means to remove from one place to another within British India.—[Petroleum Act, 1881—Act VIII of 1881, s. 3.]

"Treasury."

"The Treasury" shall mean the Commissioners of Her Majesty's Treasury.

The term "Treasury" means the Commissioners of Her Majesty's Treasury.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 2.]

"Treaty."

The term "treaty"[2] includes any convention, agreement, engagement, or arrangement.—[Slave Trade Act, 1873, 36 & 37 Vic., 88, s. 2.]

"Trinity House."

"The Trinity House" shall mean the Master, Wardens, and Assistants of the Guild, Fraternity, or Brotherhood of the Most Glorious and Undivided Trinity and of St. Clement in the parish of Deptford Strond in the county of Kent, commonly called the Corporation of the Trinity House of Deptford Strond.

"United Kingdom."

"The United Kingdom" shall mean Great Britain and Ireland.

"United Kingdom" includes the Isle of Man, the Channel Islands, and other adjacent islands.—[Territorial Waters Jurisdiction Act, 1878, 41 & 42 Vic., c. 73, s. 7.][3]

"Unsafe."

A ship is "unsafe" within the meaning of this chapter when by reason of the defective condition of her hull, equipments, or machinery, or by reason of overloading or improper loading, she is unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended.[4]—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 4.]

[1] Similar definitions in Survey of Steamers Act, 1862—Ben: Act V of 1862, s. 16; and Survey of Steamers Act, 1864—Bom: Act II of 1864, s. 17.

[2] Similar definition in Slave Trade (East African Courts) Act, 1873, 36 & 37 Vic., c. 59, s. 2.

[3] Similar definition in Foreign Enlistment Act, 1870, 33 & 34 Vic., c. 90, s. 30.

[4] This definition applies only to Chapter II of the Act, for section in which see footnote to p. 491.

A ship is "unseaworthy" within the meaning of this chapter when the materials of which she is made, her construction, the qualifications of the master, the number and description of the crew, the weight, description and stowage of cargo, the tackle, sails, rigging, stores, ballast, and other equipment generally are not such as to render her in every respect fit for the proposed voyage or service.[1]—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 4.] "Unseaworthy."

"Vagrant" means a person of European extraction found asking for alms, or wandering about without any employment or visible means of subsistence.—[The European Vagrancy Act, 1874—Act IX of 1874, s. 3.]

The word "vessel"[2] shall include anything made for the conveyance by water of human beings or property.—[Foreigners Act—Act III of 1864, s. 1.] "Vessel."

The word "vessel" shall include any ship, barge, boat, raft, timber, bamboos, or floating materials propelled in any manner.—[Canal Tolls Act, 1864—Ben: Act V of 1864, s. 1.]

The word "vessel" shall include any ship, barge, boat, raft or craft, or any other thing whatever, designed or used for the transport upon water of passengers or goods.—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 1.]

"Vessel" shall be deemed to include also every article or thing or collection of things being or forming part of the tackles, equipment, cargo, stores, or ballast of a vessel; and any proceeds arising from the sale of a vessel, and of the cargo thereof or of any other property recovered therefrom, shall be regarded as a common fund.—[Obstructions in Fairways Act, 1881—Act XVI of 1881, s. 7.]

"Vessel of a foreign state" means a vessel which is justly entitled to claim the protection of the flag of a foreign state, or which would be so entitled if she did not lose such protection by being engaged in the slave trade.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 2.] "Vessel of a Foreign State."

"Vice-Admiralty Court" does not include any Vice-Admiralty Court which for the time being has under its commission a limited jurisdiction only in matters relating to the slave trade.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 2.] "Vice-Admiralty Court."

"Vice-Admiralty Court" shall mean any of the existing Vice-Admiralty

[1] This definition applies only to Chapter II of the Act, for section in which see footnote to p. 491.

[2] Similar definition in Emigration Act, 1871—Act VII of 1871, s. 3; also in Indian Ports Act, 1875—Act XII of 1875, s. 4; also in Straits Settlements Emigration Act, 1877—Act V of 1877, s. 2; also in Sea Customs Act, 1878—Act VIII of 1878, s. 3 (*f*).

Similar definition in Stamp Act, 1879—Act I of 1879, s. 3 (20); also in Burma Coast Lights Act—Act IX of 1879, s. 3; also in Rangoon Port Commissioners Act, 1879—Act XV of 1879, s. 2; also in Inland Emigration Act, 1882—Act I of 1882, s. 3; also in Indian Merchant Shipping Act—Act V of 1883, s. 3; also in Sanitary Regulation Act, 1867—Bom: Act VI of 1867, s. 15; also in Bombay Port Trust Act, 1879—Bom: Act VI of 1879, s. 3; also in Madras Harbour Dues Act, 1882—Mad: Act VI of 1882, s. 2.

Courts enumerated in the schedule marked A[1] hereto annexed, or any Vice-Admiralty Court which shall hereafter be established in any British possession.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 2.]

"Voyage." The expression "voyage" means the whole distance between the ship's port of departure and her final port of arrival.

"Long voyage." The expression "long voyage" means any voyage during which the ship performing it will under ordinary circumstances be one hundred and twenty hours or upwards continuously out of port.

"Short voyage." The expression "short voyage" means any voyage during which the ship performing it will never under ordinary circumstances be one hundred and twenty hours continuously out of port.

Illustration.

A ship starts from port A, and is destined finally to arrive at port B, between which ports the ordinary distance is ten days; but she is to touch at four intermediate ports, no one of which is under ordinary circumstances more than five days from the next one. This is a short voyage.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 5.]

"Voyage." "Voyage" means the whole distance between a vessel's place of departure and her final place of arrival; but the return of a vessel from any place shall, notwithstanding the terms of any charter-party, be deemed a distinct voyage.—[Burma Coast Lights Act, 1879—Act IX of 1879, s. 3.]

[1] SCHEDULE A.

Antigua.
Bahamas.
Barbadoes.
Bermuda.
Ceylon.
Dominica.
Falkland Islands.
Gambia River.
Gibraltar.
Gold Coast.
Grenada.
Hong-Kong.
Jamaica.
Labuan.
Lagos.
Lower Canada, otherwise Quebec.
Malta.
Mauritius.
Montserrat.
Natal.
Nevis.
New Brunswick.
Newfoundland.
British Columbia.
British Guiana.
British Honduras.
Cape of Good Hope.
New South Wales.
New Zealand.
Nova Scotia, otherwise Halifax.
Prince Edward Island.
Queensland.
Saint Christopher.
Saint Helena.
Saint Lucia.
Saint Vincent.
Sierra Leone.
South Australia.
Tasmania, formerly called Van Diemen's Land.
Tobago.
Trinidad.
Vancouver's Island.
Victoria.
Virgin Islands, otherwise Tortola.
Western Australia.

The word "warehouse" shall include all warehouses, buildings, and premises in which goods when landed from ships may be lawfully placed.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 66.] "Warehouse."

The expression "warehouse owner" shall mean the occupier of any warehouse, as hereinbefore defined.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 66.] "Warehouse owner."

The word "wharf" shall include all wharves, quays, docks, and premises in or upon which any goods when landed from ships may be lawfully placed.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 66.] "Wharf."

The word "wharf" shall include any bank of the river which may be improved to facilitate the loading or unloading of goods and any wall adjoining the river.—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 1.]

The word "wharf" includes a bandar and any part of the foreshore used for loading or unloading goods, and any wall enclosing or adjoining the same.—[Bombay Port Trust Act, 1879—Bom: Act VI of 1879, s. 3.]

The expression "wharf owner" shall mean the occupier of any wharf, as hereinbefore defined.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 66.] "Wharf owner."

"Wreck" shall include jetsam, flotsam, lagan, and derelict found in or on the shores of the sea or any tidal water. "Wreck."

"Wreck"[1] includes the following when found in the sea or any tidal water, or on the shores thereof, that is to say:—goods which have been cast into the sea and then sink and remain in the water; goods which have been cast or fall into the sea, and remain floating on the surface; goods which are sank in the sea, but are attached to a floating object, in order that they may be formed again; goods which are thrown away or abandoned, and a vessel abandoned without hope of recovery.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 71.]

3. This Act shall come into operation on the first day of May one thousand eight hundred and fifty-five. Commencement of Act.

4. This Act shall not, except as hereinafter specially provided, apply to ships belonging to Her Majesty. Exemption of Her Majesty's ships.

5. This Act shall be divided into eleven parts:— Division of Act.

The first part relating to the Board of Trade: its general functions:
The second part to British ships: their ownership, measurement, and registry:
The third part to masters and seamen:
The fourth part to safety and prevention of accidents:
The fifth part to pilotage:
The sixth part to light-houses:

[1] This definition is confined to Chap. V of Act VII of 1880; see sections 439*a* and footnote, 439*b*, 450*a*, 450*b*, 452*a*, 453*a*, 453*b*, 456*b*.

The seventh part to the Mercantile Marine Fund:
The eighth part to wrecks, casualties, and salvage:
The ninth part to liability of ship-owners:
The tenth part to legal procedure:
The eleventh part to miscellaneous matter.

DIGEST

OF

THE STATUTES AND ACTS

RELATING TO

MERCHANT SHIPPING IN INDIA.

PART I.

THE BOARD OF TRADE: ITS GENERAL FUNCTIONS.

Functions of Board of Trade.

Board of Trade to be department to superintend merchant shipping.

6. The Board of Trade shall be the department to undertake the general superintendence of matters relating to merchant ships and seamen, and shall be authorised to carry into execution the provisions of this Act, and of all other Acts relating to merchant ships and seamen in force for the time being other than such Acts as relate to the revenue.

Certificates and documents purporting to be sealed or signed in a given way to be received in evidence.

7. All documents whatever purporting to be issued or written by or under the direction of the Board of Trade, and purporting either to be sealed with the seal of such Board, or to be signed by one of the secretaries or assistant secretaries to such Board, shall be received in evidence, and shall be deemed to be issued or written by or under the direction of the said Board, without further proof, unless the contrary be shown; and all documents purporting to be certificates issued by the Board of Trade in pursuance of this Act, and to be sealed with the seal of such Board, or to be signed by one of the officers of the Marine Department of such Board, shall be received in evidence, and shall be deemed to be such certificates, without further proof, unless the contrary be shown.

Board of Trade to issue forms of instruments.

8. The Board of Trade may from time to time prepare and sanction forms of the various books, instruments, and papers required by this Act, other than those required by the second part thereof, and may from time to time make such alterations therein as it deems requisite; and shall, before finally issuing or altering any such form, give such public notice thereof as it deems necessary in order to prevent inconvenience; and shall cause every such form to be sealed with such seal as aforesaid, or marked with some other distinguishing mark, and to be supplied at the custom-houses and shipping offices of the United Kingdom free of charge, or at such moderate prices as it may from

BENGAL SECRETARIAT

Functions of Board of Trade.

time to time fix, or may license any persons to print and sell the same; and every such book, instrument, and paper as aforesaid shall be made in the form issued by the Board of Trade, and sanctioned by it as the proper form for the time being; and no such book, instrument, or paper as aforesaid, unless made in such form, shall be admissible in evidence in any civil proceeding on the part of any owner or master of any ship; and every such book, instrument, or paper, if made in a form purporting to be a proper form, and to be sealed or marked as aforesaid, shall be taken to be made in the form hereby required, unless the contrary is proved.

Certain forms and instruments to be exempt from stamp-duty.

9. All instruments used in carrying into effect the second part of this Act, if not already exempted from stamp-duty, and all instruments which by the third, fourth, sixth, or seventh parts of this Act are required to be made in forms sanctioned by the Board of Trade, if made in such forms, and all instruments used by or under the direction of the Board of Trade in carrying such parts of this Act into effect, shall be exempt from stamp-duty.

Penalties for forgery of seal and fraudulent alteration of forms, and for using forms not issued by Board of Trade.

10. Every person who forges, assists in forging, or procures to be forged, such seal or other distinguishing mark as aforesaid, or who fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any form issued by the Board of Trade, with the view of evading any of the provisions of this Act or any condition contained in such form, shall for each offence be deemed guilty of a misdemeanour; and every person who, in any case in which a form sanctioned by the Board of Trade is by the third part of this Act required to be used, uses without reasonable excuse any form not purporting to be so sanctioned, or who prints, sells, or uses any documents purporting to be a form so sanctioned, knowing the same not to be so sanctioned for the time being, or not to have been prepared and issued by the Board of Trade, shall for each such offence incur a penalty not exceeding ten pounds.

Of monies and fines paid to Board of Trade.

11. Subject to the provisions hereinafter contained, all fees and payments (other than fines) coming to the hands of the Board of Trade under the third and fourth parts of this Act shall be carried to the account of the Mercantile Marine Fund hereinafter mentioned, and shall be dealt with as herein prescribed in that behalf; and all fines coming to the hands of the Board of Trade under this Act shall be paid into the receipt of Her Majesty's Exchequer in such manner as the Treasury may direct, and shall be carried to and form part of the Consolidated Fund of the United Kingdom.

Returns to Board of Trade.

12. All consular officers, and all officers of Customs abroad, and all local marine boards and shipping masters, shall make and send to the Board of Trade such returns or reports on any matter relating to British merchant shipping or seamen as such Board requires; and all shipping masters shall, whenever required by the Board of Trade, produce to such Board or to its officers all official log books and other documents which, in pursuance of this Act, are delivered to them.

Officer of Board of Trade, naval officers, Consuls.

13. Every officer of the Board of Trade and every commissioned officer of any of Her Majesty's ships on full pay, and every British Consular officer

Functions of Board of Trade.

The Registrar General of Seamen, officers of Customs, shipping masters, may inspect documents.

and the Registrar General of Seamen and his assistant, and every chief officer of Customs in any place in Her Majesty's dominions, and every shipping master, may, in cases where he has reason to suspect that the provisions of this Act, or the laws for the time being relating to merchant seamen and to navigation, are not complied with, exercise the following powers (that is to say)—

He may require the owner, master, or any of the crew of any British ship to produce any official log books or other documents relating to such crew, or any number thereof in their respective possession or control.

He may require any such master to produce a list of all persons on board his ship, and take copies of such official log books, or documents, or of any part thereof.

He may muster the crew of any such ship. He may summon the master to appear and give any explanation concerning such ship or her crew or the said official log books or documents.

And if, upon requisition duly made by any person so authorised in that behalf as aforesaid, any person refuses or neglects to produce any such official log book or document as he is hereinbefore required to produce, or to allow the same to be inspected or copied as aforesaid, or impedes any such master of a crew as aforesaid, or refuses or neglects to give any explanation which he is hereinbefore required to give, or knowingly misleads or deceives any person hereinbefore authorised to demand any such explanation, he shall for each such offences incur a penalty not exceeding twenty pounds.

Board of Trade may appoint inspectors.

14. The Board of Trade may from time to time, whenever it seems expedient to them so to do, appoint any person as an inspector to report to them upon the following matter (that is to say)—

(1) Upon the nature and causes of any accident or damage which any ship has sustained or caused, or is alleged to have sustained or caused;

(2) Whether the provisions of this Act, or any regulations made under or by virtue of this Act, have been complied with;

(3) Whether the hull and machinery of any steam-ship are sufficient and in good condition.

Powers of inspectors.

15. Every such inspector as aforesaid shall have the following powers (that is to say)—

(1) He may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments, or articles on board thereof to which the provisions of this Act apply, not annecessarily detaining or delaying her from proceeding on any voyage;

(2) He may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make;

Functions of Board of Trade.

(3) He may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make;

(4) He may require and enforce the production of all books, papers, or documents, which he considers important for such purpose;

(5) He may administer oaths, or may, in lieu of requiring or administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination:

Witnesses to be allowed expenses.

And every witness so summoned as aforesaid shall be allowed such expenses as would be allowed to any witness attending on subpœna to give evidence before any court of record, or, if in Scotland, to any witness attending on citation the Court of Justiciary; and in case of any dispute as to the amount of such expenses the same shall be referred by the inspector to one of the masters of Her Majesty's Court of Queen's Bench in England or Ireland, or to the Queen's and Lord Treasurer's Remembrancer in Scotland, who, on a request made to him for that purpose under the hand of the said inspector, shall ascertain and certify the proper amount of such expenses; and every person who refuses to attend as a witness before any such inspector, after having been required so to do in the manner hereby directed, and after having had a tender made to him of the expenses (if any) to which he is entitled as aforesaid, or who refuses or neglects to make any answer, or to give any return, or to produce any document in his possession, or to make or subscribe any declarations which any such inspector is hereby empowered to require, shall for each such offence incur a penalty not exceeding ten pounds.

Penalty for refusing to give evidence.

Penalty for obstructing inspectors in the execution of their duty.

16. Every person who wilfully impedes any such inspector appointed by the Board of Trade as aforesaid in the execution of his duty, whether on board any ship or elsewhere, shall incur a penalty not exceeding ten pounds, and may be seized and detained by such inspector or other person, or by any person or persons whom he may call to his assistance, until such offender can be conveniently taken before some Justice of the Peace or other officer having proper jurisdiction.

PART II.

British Ships: Their Ownership, Measurement, and Registry.

Application.

Application.

Application of part II of Act.

17. The second part of this Act shall apply to the whole of Her Majesty's dominions.

Description and Ownership of British Ships.

Description and ownership of British ships.

Description and ownership of British ships.

18. No ship shall be deemed to be a British ship unless she belongs wholly to owners of the following description (that is to say)—

(1) Natural-born British subjects:

Provided that no natural-born subject who has taken the oath of allegiance to any foreign sovereign or State shall be entitled to be such owner as aforesaid, unless he has, subsequently to taking such last-mentioned oath, taken the oath of allegiance to Her Majesty, and is and continues to be during the whole period of his so being an owner resident in some place within Her Majesty's dominions, or, if not so resident, member of a British factory, or partner in a house actually carrying on business in the United Kingdom, or in some other place within Her Majesty's dominions:

(2) Persons made denizens by letters of denization, or naturalized by or pursuant to any Act of the imperial legislature, or by or pursuant to any Act or ordinance of the proper legislative authority in any British possession:

Provided that such persons are and continue to be during the whole period of their so being owners resident in some place within Her Majesty's dominions, or, if not so resident, members of a British factory, or partners in a house actually carrying on business in the United Kingdom, or in some other place within Her Majesty's dominions, and have taken the oath of allegiance to Her Majesty subsequently to the period of their being so made denizens or naturalized:

(3) Bodies corporate established under, subject to the laws of, and having their principal place of business in, the United Kingdom or some British possession.

Saving of letters of denization.

18*a*. Nothing in this Act contained shall qualify an alien to be the owner of a British ship.—[The Naturalization Act, 1870, 33 Vic., c.14, s.14.]

British ships, with certain exceptions, must be registered.

19. Every British ship must be registered in manner hereinafter mentioned, except—

(1) Ships duly registered before this Act comes into operation:

(2) Ships not exceeding fifteen tons burden employed solely in navigation on the rivers or coasts of the United Kingdom, or on the rivers or coasts of some British possession within which the managing owners of such ships are resident:

(3) Ships not exceeding thirty tons burden, and not having a whole or fixed deck, and employed solely in fishing or trading coastwise on

Description and ownership of British ships.

the shores of Newfoundland or parts adjacent thereto, or in the Gulf of St. Lawrence, or on such portion of the coasts of Canada, Nova Scotia, or New Brunswick as lie bordering on such gulf:

And no ship hereby required to be registered shall, unless registered, be recognised as a British ship; and no officer of Customs shall grant a clearance or transire to any ship hereby required to be registered for the purpose of enabling her to proceed to sea as a British ship, unless the master of such ship, upon being required so to do, produces to him such certificate of registry as is hereinafter mentioned; and if such ship attempts to proceed to sea as a British ship without a clearance or transire, such officer may detain such ship until such certificate is produced to him.

No ship or vessel to be deemed a British ship, unless registered and certificate of such registry obtained in prescribed form.

19*a*. Whereas by a statute passed in the 3rd and 4th year of Her Majesty Queen Victoria, entitled "an Act to regulate the trade of ships built and trading within the limits of the East India Company's Charter," it is enacted "that it shall be lawful for the Governor General of India in Council, by proclamation, to declare that all ships or vessels built or to be built within the limits of the Charter of the East India Company, being owned by Her Majesty's subjects for whom the said Governor General in Council has power to legislate, and belonging, under the regulations hereinafter provided for, to any ports in the territories under the government of the said Company, shall be deemed to be British ships for all the purposes of trade within the said limits, including the Cape of Good Hope, and the territories and dependencies thereof: provided that upon such declaration being made the said Governor General in Council shall, and the said Governor General in Council is hereby accordingly empowered to, make regulations to be enforced by suitable penalties, concerning the registering, licensing, and ascertaining the admeasurement of the tonnage and burden, and generally for the trading within the limits aforesaid of such ships or vessels." And whereas it is further enacted in the same statute as follows, that is to say, "And whereas it may be expedient to admit to similar privileges and advantages any ships or vessels belonging to Native Princes or States in subordinate alliance with, or having subsidiary treaties with, the East India Company, or owned by subjects of any such Princes or States, be it therefore enacted that the Governor General of India in Council may by such regulations as aforesaid, such regulations being subject as aforesaid, admit to the privileges and advantages of British ships for the purposes of trade within the limits of the Charter of the said Company, including the Cape of Good Hope, and the territories and dependencies thereof, or to any of such privileges and advantages, any ships or vessels belonging to such Princes or States, or any of them, or owned by subjects of any such Princes or States; but any such regula ions shall provide for the granting to such ships or vessels fit and convenient licenses or passes, and generally for the trading within the limits aforesaid of such ships or vessels." And whereas in pursuance of such enactments it is expedient to frame such regulations as are mentioned therein, the

Description and ownership of British ships.

compliance with which shall be required in order that ships or vessels may be deemed British ships, or be admitted to the privileges and advantages of British ships under such proclamation[1] as aforesaid;

It is hereby enacted that no ship or vessel shall be deemed a British ship under such proclamation as aforesaid (except as regards ships or vessels registered before the passing of this Act, or having a pass at the time of passing thereof), unless the person or persons claiming property therein shall have caused the same to have been registered at some one of the ports hereinafter mentioned within the territories of the East India Company, and shall have obtained a certificate of such registry from the person or persons authorised to make such registry and grant such certificate as hereinafter directed; the form of which certificate shall be as follows:—

"This is to certify that in pursuance of the Act No. X of 1841 of the Governor General of India in Council (here insert the names and occupation and residence of subscribing owners) having made and subscribed the declaration required by the said Act and having declared that (he or they) together with (names, occupations and residence of non-subscribing owners) (is or are) sole owner or owners, in the proportions specified on the back hereof, of the ship or vessel called the (ship's name) of (place at which the vessel shall be registered) which is of the burthen of (number of tons), and whereof (master's name) is master, and that the said ship or vessel was (when and where built) and (name and employment of surveying officer) having certified to us, that the said ship or vessel has (number) decks and (number) masts, that her (here insert the measurement as ascertained by the rules hereinafter mentioned) that she is (how rigged) rigged with a (standing or running) bowsprit, is (description of stern) sterned, (carvel or clincher) built, has (whether any or no) gallery, and (kind of head, if any) head: and the said subscribing owners having consented and agreed to the above description, the said ship or vessel called the (name) has been duly registered at the port of (name of port), certified under our hands at the Custom-house, in the said port of (name of port), this (date) day of (name of month) in the year (words at length).

(Signed)———Collecter or Registrar of Shipping.

[1] *Proclamation.*

The Governor General of India in Council hereby declares that all ships and vessels built or to be built within the limits of the Charter of the East India Company (as those limits are defined by the statute 3rd and 4th of Queen Victoria, cap. 56, entitled "An Act further to regulate the trade of ships built and trading within the limits of the East India Company's Charter"), being owned by Her Majesty's subjects for whom the said Governor General in Council has power to legislate and belonging under the provisions of the Act passed by the Governor General in Council, No. X of 1841, to any ports in the territories under the government of the East India Company, shall be deemed to be British ships for all purposes of trade within the said limits, including the Cape of Good Hope and the territories and dependencies thereof.

Description and ownership of British ships.

And on the back of such certificate of registry there shall be an account of the parts or shares held by each of the owners mentioned and described in such certificate, in the form and manner following :—

Names of several owners within mentioned.	*Number of shares held by each owner.*
Name	Thirty-two.
Name	Sixteen.
Name	Eight.
	&c., &c.

(Signed)——*Collector.*

[Ship Registry—Act X of 1841, s. 1.]

Ships of Native States.

19*b*. When any ship or vessel duly registered under this Act, or sailing under the British navigation law, shall come to be owned by a Native Prince or State, or by any subject of such Native Prince or State as aforesaid, it shall be lawful for the Governor of Fort William in Bengal, or for the Governor in Council of any presidency, to continue to such ship or vessel the privileges and advantages of a British ship for the purposes aforesaid by a pass to be issued under the Company's seal and subscribed by a Secretary to Government, stating the voyage or voyages for which the same is to have effect, and the period for which it is to last; and it shall be lawful for the Governor of Fort William in Bengal, or the Governor in Council of any presidency, to issue a similar pass conferring the privileges and advantages of a British ship for the purposes aforesaid under this Act to any ship or vessel built within the dominions of such Native Prince or State, and owned by such Prince or State, or by any of their subjects; provided always that the ships belonging to Native Princes or States, or their subjects, in respect of which passes may be granted under this Act, shall, during the voyage or voyages, or the period for which any such pass shall be granted, be commanded by a subject of Her Majesty for whom the Governor General in Council has power to legislate.—[Ship Registry—Act X of 1841, s. 24.]

Passes under Act X, 1841, to ships of allied Native state wherever built.

19*c*. The passes which, under section 24 of the said Act,[1] may be issued for conferring the privileges and advantages of a British ship, in certain cases, to any ship or vessel built within the dominions of a Native Prince or State in subordinate alliance with, or having subsidiary treaties with, the East India Company, may, after the passing of this Act, be issued in the like cases, and under the same restrictions, to any ship or vessel belonging to any such Native Prince or State, or their subjects, wherever the same may have been built.—[Navigation Act, 1850—Act XI of 1850, s. 2.]

Registry of, and passes to, certain coasting vessels.

19*d*. All ships or vessels, of whatever rig and of whatever tonnage, owned by British subjects, entitled to registry under Act X, 1841, or owned by such Native Princes or States, or by their subjects entitled to passes under Act X, 1841, as amended by this Act, employed only in coasting voyages, or

[1] Act X of 1841.

between any port of the continent of India and the island of Ceylon, may be registered and obtain passes, and the tonnage may be marked, according to such rules as shall be made from time to time by the Governor or Governor in Council of each presidency.—[Navigation Act, 1850[1] Act XI of 1850, s. 3.]

Description and ownership of British ships.

As to registration of certain Bombay coasting vessels, see s. 544s.

Measurement of Tonnage.

Measurement of Tonnage.

20. Throughout the following rules the tonnage deck shall be taken to be the upper deck in ships which have less than three decks, and to be the second deck from below in all other ships; and in carrying such rules into effect all measurements shall be taken in feet and fractions of feet, and all fractions of feet shall be expressed in decimals.

Tonnage deck; feet; decimals.

21. The tonnage of every ship to be registered, with the exceptions mentioned in the next section, shall previously to her being registered be ascertained by the following rule, hereinafter called Rule I; and the tonnage of every ship to which such rule can be applied, whether she is about to be registered or not, shall be ascertained by the same rule:

Rule I. For ships to be registered and other ships of which the hold is clear.

(1) Measure the length of the ship in a straight line along the upper side of the tonnage deck, from the inside of the inner plank (average thickness) at the side of the stem to the inside of the midship stern timber or plank there, as the case may be (average thickness), deducting from this length what is due to the rake of the bow in the thickness of the deck, and what is due to the rake of the stern timber in the thickness of the deck, and also what is due to the rake of the stern timber in one-third of the round of the beam; divide the length so taken into the number of equal parts required by the following table, according to the class in such table to which the ship belongs:

Lengths.

Table.

Class 1. Ships of which the tonnage deck is according to the above measurement 50 feet long or under, into 4 equal parts:

,, 2. Ships of which the tonnage deck is according to the above measurement above 50 feet long and not exceeding 120, into 6 equal parts:

,, 3. Ships of which the tonnage deck is according to the above measurement above 120 feet long and not exceeding 180, into 8 equal parts:

,, 4. Ships of which the tonnage deck is according to the above measurement above 180 feet long and not exceeding 225, into 10 equal parts:

[1] Act XI of 1850 is to be construed as part of Act X of 1841.

Measurement of Tonnage.

Class 5: Ships of which the tonnage deck is according to the above measurement above 225 feet long, into 12 equal parts.

Transverse areas.

(2) Then, the hold being first sufficiently cleared to admit of the required depths and breadths being properly taken, find the transverse area of such ship at each point of division of the length, as follows:—Measure the depth at each point of division, from a point at a distance of one-third of the round of the beam below such deck, or, in case of a break, below a line stretched in continuation thereof, to the upper side of the floor timber at the inside of the limber strake, after deducting the average thickness of the ceiling which is between the bilge planks and limber strake; then, if the depth at the midship division of the length do not exceed sixteen feet, divide each depth into four equal parts; then measure the inside horizontal breadth at each of the three points of division, and also at the upper and lower points of the depth, extending each measurement to the average thickness of that part of the ceiling which is between the points of measurement; number these breadths from above (*i.e.*, numbering the upper breadth one, and so on down to the lowest breadth); multiply the second and fourth by four, and the third by two; add these products together, and to the sum add the first breadth and the fifth; multiply the quantity thus obtained by one-third of common interval between the breadths, and the product shall be deemed the transverse area; but if the midship depth exceed sixteen feet, divide each depth into six equal parts instead of four, and measure, as before directed, the horizontal breadths at the five points of division, and also at the upper and lower points of the depth; number them from above as before; multiply the second, fourth, and sixth by four, and the third and fifth by two; add these products together, and to the sum add the first breadth and the seventh; multiply the quantity thus obtained by one-third of the common interval between the breadths, and the product shall be deemed the transverse area.

Computation from areas.

(3) Having thus ascertained the transverse area at each point of division of the length of the ship as required by the above table, proceed to ascertain the register tonnage of the ship in the following manner: Number the areas successively—1, 2, 3, &c., No. 1 being at the extreme limit of the length at the bow, and the last number at the extreme limit of the length at the stern; then, whether the length be divided according to the table into four or twelve parts, as in classes 1 and 5, or any intermediate number, as in classes 2, 3, and 4, multiply the second and every even numbered area by four, and the third and every odd numbered area (except the first and last) by two; add these products together, and to the sum add the first and last, if they yield anything; multiply the quantity thus obtained

by one-third of the common interval between the areas, and the product will be the cubical contents of the space under the tonnage deck; divide this product by one hundred, and the quotient, being the tonnage under the tonnage deck, shall be deemed to be the register tonnage of the ship, subject to the additions and deductions hereinafter mentioned. *Measurement of Tonnage.*

(4) If there be a break, a poop, or any other permanent closed-in space on the upper deck, available for cargo stores, or for the berthing or accommodation of passengers or crew, the tonnage of such space shall be ascertained as follows: Measure the internal mean length of such space in feet, and divide it into two equal parts; measure at the middle of its height three inside breadths, namely, one at each end and the other at the middle of the length; then to the sum of the end breadths add four times the middle breadth, and multiply the whole sum by one-third of the common interval between the breadths; the product will give the mean horizontal area of such space; then measure the mean height, and multiply by it the mean horizontal area; divide the product by one hundred, and the quotient shall be deemed to be the tonnage of such space, and shall be added to the tonnage under the tonnage deck, ascertained as aforesaid, subject to the following provisoes; first, that nothing shall be added for a closed-in space solely appropriated to the berthing of the crew, unless such space exceeds one-twentieth of the remaining tonnage of the ship, and in case of such excess the excess only shall be added; and, secondly, that nothing shall be added in respect of any building erected for the shelter of deck-passengers, and approved by the Board of Trade. *Poop and any other closed-in space.*

(5) If the ship has a third deck, commonly called a spar deck, the tonnage of the space between it and the tonnage deck shall be ascertained as follows: Measure in feet the inside length of the space at the middle of its height, from the plank at the side of the stem to the lining on the timbers at the stern, and divide the length into the same number of equal parts into which the length of the tonnage deck is divided as above directed; measure (also at the middle of its height) the inside breadth of the space at each of the points of division, also the breadth of the stem and the breadth at the stern; number them successively 1, 2, 3, &c., commencing at the stem; multiply the second and all the other even numbered breadths by four, and the third and all the other odd numbered breadths (except the first and last) by two; to the sum of these products add the first and last breadths; multiply the whole sum by one-third of the common interval between the breadths, and the result will give in superficial feet the mean horizontal area of such space; measure the mean height of such space, and multiply by it *In case of two or more decks.*

Measurement of Tonnage.

the mean horizontal area, and the product will be the cubical contents of the space; divide this product by one hundred, and the quotient shall be deemed to be the tonnage of such space, and shall be added to the other tonnage of the ship ascertained as aforesaid; and if the ship has more than three decks, the tonnage of each space between decks above the tonnage deck shall be severally ascertained in manner above described, and shall be added to the tonnage of the ship ascertained as aforesaid.

Rule II.

For ships not requiring registry with cargo on board.

22. Ships which, requiring to be measured for any purpose other than registry, have cargo on board, and ships which, requiring to be measured for the purpose of registry, cannot be measured by the rule above given, shall be measured by the following rule, hereinafter called Rule II:

Length.

(1) Measure the length on the upper deck, from the outside of the outer plank at the stem to the aftside of the sternpost, deducting therefrom the distance between the aftside of the sternpost and the rabbet of the sternpost at the point where the counter-plank crosses it; measure also the greatest breadth of the ship, to the outside of the outer planking or wales, and then, having first marked on the outside of the ship on both sides thereof the height of the upper deck at the ship's sides, girt the ship at the greatest breadth, in a direction perpendicular to the keel, from the height so marked on the outside of the ship on the one side to the height so marked on the other side, by passing a chain under the keel; to half the girt thus taken add half the main breadth; square the sum; multiply the result by the length of the ship taken as aforesaid; then multiply this product by the factor ·0018 (eighteen ten-thousandths) in the case of ships built of wood, and by ·0021 (twenty-one ten-thousandths) in the case of ships built of iron, and the product shall be deemed the register tonnage of the ship, subject to the additions and deductions hereinafter mentioned.

Breadth.

Girting of the ship.

Poop and other closed-in spaces on upper deck.

(2) If there be a break, a poop, or other closed-in space on the upper deck, the tonnage of such space shall be ascertained by multiplying together the mean length, breadth, and depth of such space, and dividing the product by one hundred, and the quotient so obtained shall be deemed to be the tonnage of such space, and shall, subject to the deduction for a closed-in space appropriated to the crew, as mentioned in Rule I, be added to the tonnage of the ship ascertained as aforesaid.

Ships measured under Rule 2 may be measured under Rule 1.

22*a*. The owner of any ship which is measured under Rule II, contained in the twenty-second section of the Merchant Shipping Act, 1854, may at any subsequent period apply to the Commissioner of Customs to have the said ship remeasured under Rule I, contained in the twenty-first section of the same Act; and the said Commissioners may thereupon and upon payment of such

fee, not exceeding seven shillings and six pence for each traverse section, as they may authorise, direct the said ship to be remeasured accordingly, and the number denoting the register tonnage shall be altered accordingly.—[Merchant Shipping Act Amendment Act, 1855, 18 and 19 Vic., c. 91, s. 14.] *Measurement of Tonnage.*

22*b*. The tonnage of every ship or vessel required by law to be registered shall, previous to her being registered, be measured and ascertained while her hold is clear, and according to the following rule; (that is to say) divide the length of the upper deck between the afterpart of the stem and the forepart of the sternpost into six equal parts. Depths: at the foremost, the middle, and the aftermost of those points of division, measure in feet and decimal parts of a foot the depths from the underside of the upper deck to the ceiling at the limber strake. In the case of a break in the upper deck, the depths are to be measured from a line stretched in a continuation of the deck. Breadths: divide each of those three depths into five equal parts, and measure the inside breadths at the following points, *videlicet*, at one-fifth and at four-fifths from the upper deck of the foremost and aftermost depths, and at two-fifths and four-fifths from the upper deck of the midship depth. Length: at half the midship depth measure the length of the vessel from the afterpart of the stem to the forepart of the sternpost, then to twice the midship depth add the foremost and the aftermost depths for the sum of the depths; add together the upper and lower breadths at the foremost division, three times the upper breadth and the lower breadth at the midship division, and the upper and twice the lower breadth at the after division, for the sum of the breadths; then multiply the sum of the depths by the sum of the breadths, and this product by the length, and divide the final product by three thousand five hundred, which will give the number of tons for register. If the vessel have a poop or half deck, or a break in the upper deck, measure the inside mean length, breadth, and height of such part thereof as may be included within the bulk head; multiply these three measurements together and dividing the product by 92·4 the quotient will be the number of tons to be added to the result as above found. In order to ascertain the tonnage of open vessels, the depths are to be measured from the upper edge of the upper strake.—[Ship Registry—Act X of 1841, s. 8.] *Rules of measurement.*

22*c*. If any ship, British or foreign, other than home-trade ships as defined by the Merchant Shipping Act, 1854, carries as deck cargo, that is to say, in any uncovered space upon deck, or in any covered space not included in the cubical contents forming the ship's registered tonnage, timber, stores, or other goods, all dues payable on the ship's tonnage shall be payable as if there were added to the ship's registered tonnage the tonnage of the space occupied by such goods at the time at which such dues become payable. *Space occupied by deck cargo to be liable to dues.*

The space so occupied shall be deemed to be the space limited by the area occupied by the goods and by straight lines inclosing a rectangular space sufficient to include the goods.

The tonnage of such space shall be ascertained by an officer of the Board of Trade or of Customs, in manner directed by sub-section four of section

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twenty-one of the Merchant Shipping Act, 1854, and when so ascertained shall be entered by him in the ship's official log book, and also in a memorandum which he shall deliver to the master, and the master shall, when the said dues are demanded, produce such memorandum in like manner as if it were the certificate of registry, or, in the case of a foreign ship, the document equivalent to a certificate of registry, and in default shall be liable to the same penalty as if he had failed to produce the said certificate or document.—[Merchant Shipping Act, 1878, 39 & 40 Vic., c. 80, s. 23.]

RULE III.

Allowance for engine-room in steamers.

23. In every ship propelled by steam or other power requiring engine-room, an allowance shall be made for the space occupied by the propelling power, and the amount so allowed shall be deducted from the gross tonnage of the ship ascertained as aforesaid, and the remainder shall be deemed to be the register tonnage of such ship; and such deduction shall be estimated as follows (that is to say)—

To be taxable in ordinary steamers.

(*a*) As regards ships propelled by paddle wheels in which the tonnage of the space solely occupied by and necessary for the proper working of the boilers and machinery is above twenty per cent. and under thirty per cent. of the gross tonnage of the ship, such deduction shall be thirty-seven one-hundredths of such gross tonnage; and in ships propelled by screws in which the tonnage of such space is above thirteen per cent. and under twenty per cent. of such gross tonnage, such deduction shall be thirty-two one-hundredths of such gross tonnage:

May be measured where the space is unusually large or small.

(*b*) As regards all other ships, the deduction shall, if the *Commissioners of Customs* (Board of Trade[1]) and the owner both agree thereto, be estimated in the same manner; but either they or he may in their or his discretion require the space to be measured and the deduction estimated accordingly; and whenever such measurement is so required, the deduction shall consist of the tonnage of the space actually occupied by or required to be inclosed for the proper working of the boilers and machinery, with the addition in the case of ships propelled by paddle wheels, of one-half, and, in the case of ships propelled by screws, of three-fourths, of the tonnage of such space; and the measurement and use of such space shall be governed by the following rules (that is to say)—

Mode of measurement.

(1) Measure the mean depth of the space from its crown to the ceiling at the limber strake; measure also three, or, if necessary, more than three, breadths of the space at the middle of its depth, taking one of such measurements at each end, and another at the middle of the length; take the mean of such breadths; measure also the mean length of the space between the foremost and aftermost bulk-heads or limits of its length, excluding such parts, if any, as are not actually occupied by or required for the proper working of the machinery; multiply together these three dimensions of length, breadth,

[1] Merchant Shipping Act, 1872, 35 & 36 Vic., c. 73, s. 3.

and depth, and the product will be the cubical contents of the space below the crown; then find the cubical contents of the space or spaces, if any, above the crown aforesaid which are framed in for the machinery, or for the admission of light and air, by multiplying together the length, depth, and breadth thereof; add such contents to the cubical contents of the space below the crown; divide the sum by one hundred; and the result shall be deemed to be the tonnage of the said space: *Measurement of Tonnage.*

(2) If in any ship in which the space aforesaid is to be measured, the engines and boilers are fitted in separate compartments, the contents of each shall be measured severally in like manner, according to the above rules, and the sum of their several results shall be deemed to be the tonnage of the said space: *In case of separate compartments.*

(3) In the case of screw steamers in which the space aforesaid is to be measured, the contents of the shaft trunk shall be added to and deemed to form part of such space, and shall be ascertained by multiplying together the mean length, breadth, and depth of the trunk, and dividing the product by one hundred: *Shaft trunks of screw steamers.*

(4) If in any ship in which the space aforesaid is to be measured any alteration be made in the length or capacity of such space, or if any cabins be fitted in such space, such ship shall be deemed to be a ship not registered until remeasurement: *Alteration of engine-room.*

(5) If in any ship in which the space aforesaid is to be measured any goods or stores are stowed or carried in such space, the master and owner shall each be liable to a penalty not exceeding one hundred pounds. *Penalty for carrying goods in such space.*

23*a*. In each of the several rules hereinbefore prescribed, when applied for the purpose of ascertaining the tonnage of any ship or vessel propelled by steam, the tonnage due to the cubical contents of the engine-room shall be deducted from the total tonnage of the vessel as determined by either of the rules aforesaid, and the remainder shall be deemed the true register tonnage of the said ship or vessel. The tonnage due to the cubical contents of the engine-room shall be determined in the following manner; that is to say, measure the inside length of the engine-room in feet and decimal parts of a foot from the foremost to the aftermost bulk-head; then multiply the said length by the depth of the ship or vessel at the midship division as aforesaid, and the product by the inside breadth at the same division at two-fifths of the depth from the deck taken as aforesaid, and divide the last product by 92·4, and the quotient shall be deemed the tonnage due to the cubical contents of the engine-room.—[Ship Registry—Act X of 1841, s. 9.] *Measurement of steam-vessels.*

23*b*. The tonnage due to the cubical contents of the engine-room, and also the length of the engine-room, shall be set forth in the certificate of registry as part of the description of the ship or vessel, and that any alteration of such tonnage due to the cubical contents of the engine-room, or of such length *Alterations in steam-vessels requiring new registry.*

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of the engine-room after registry, shall be deemed to be an alteration requiring registry *de novo* within the meaning of the said Act for the registering of ships or vessels.—[Ship Registry—Act X of 1841, s. 10.]

Measurement of laden vessels.

23*c*. For the purpose of ascertaining the tonnage of all such ships, whether belonging to the United Kingdom or otherwise, as there shall be occasion to measure while their cargoes are on board, the following rule shall be observed and is hereby established; (that is to say) measure, first, the length on the upper deck between the afterpart of the stem and the forepart of the sternpost; secondly, the inside breadth on the underside of the upper deck at the middle point of the length; and thirdly, the depth from the underside of the upper deck down the pump-well to the skin; multiply these three dimensions together, and divide the product by one hundred and thirty, and the quotient will be the amount of the register tonnage of such ships.—[Ship Registry—Act X of 1841, s. 11.]

Open ships how measured.

24. In ascertaining the tonnage of open ships the upper edge of the upper strake is to form the boundary line of measurement, and the depths shall be taken from athwart ship line extended from upper edge to upper edge of the said strake at each division of the length.

Tonnage and number of certificate to be carved on beam.

25. *In every registered British ship the number denoting the register tonnage, ascertained as hereinbefore directed, and the number of her certificate of registry, shall be deeply carved or otherwise permanently marked on her main beam, and shall be so continued; and if it at any time cease to be so continued, such ship shall be no longer recognised as a British ship.*—[Repealed by Merchant Shipping Act, 1871, 34 and 35 Vic., c. 110, s. 12.]

Registered tonnage to be marked.

25*a*. The true amount of the register tonnage of every merchant ship or vessel belonging to the United Kingdom, to be ascertained according to the rule by this Act established in respect of such ships, shall be deeply carved or cut in figures of at least three inches in length on the main beam of every such ship or vessel, prior to her being registered.—[Ship Registry—Act X of 1841, s. 12.]

Tonnage when duly ascertained to be ever after deemed the tonnage.

26. Whenever the tonnage of any ship has been ascertained and registered in accordance with the provisions of this Act, the same shall thenceforth be deemed to be the tonnage of such ship, and be repeated in every subsequent registry thereof, unless any alteration is made in the form or capacity of such ship, or unless it is discovered that the tonnage of such ship has been erroneously computed; and in either of such cases such ship shall be remeasured, and her tonnage determined and registered according to the rules hereinbefore contained in that behalf.

Registered tonnage to be repeated in every subsequent register.

26*a*. Whenever the tonnage of any ship or vessel shall have been ascertained according to the rules herein prescribed, such account of tonnage shall ever after be deemed the tonnage of such ship or vessel, and shall be repeated in every subsequent registry of such ship or vessel, unless it shall happen that any alteration has been made in the form of burthen of such ship or

vessel, or it shall be discovered that the tonnage of such ship or vessel had been erroneously taken and computed.—[Merchant Shipping Act Amendment Act, 1855, 18 and 19 Vic., c. 91, s. 14.]

Measurement of Tonnage.

27. The rules for the measurement of tonnage herein contained shall not make it necessary to alter the present registered tonnage of any British ship registered before this Act comes into operation; but if the owner of any such ship desires to have the same remeasured according to such rules, he may apply to the *Commissioners of Customs* (Board of Trade[1]) for the purpose, and such *Commissioners* (Board[1]) shall thereupon, and on payment of such reasonable charge for the expenses of remeasurement, not exceeding the sum of seven shillings and six pence for each transverse section, as they may authorise, direct such remeasurement to be made, and such ship shall thereupon be remeasured according to such rules as aforesaid, or according to such of them as may be applicable; and the number denoting the register tonnage shall be altered accordingly.

Remeasurement of ships already registered may be made, but not to be compulsory.

28. If it appears to the *Commissioners of Customs* (Board of Trade[1]) that in any steam-ship measured before this Act comes into operation store-rooms or coal-bunkers have been introduced into or thrown across the engine-room, so that the deduction from the tonnage on account of the engine-room is larger than it ought to be, the said *Commissioners* (Board[1]) may, if they think fit, direct such engine-room to be remeasured according to the rules in force before this Act comes into operation, excluding the space occupied by such store-rooms or coal-bunkers, or may, if the owners so desire, cause the ship to be remeasured according to the rules hereinbefore contained, and subject to the conditions contained in the last preceding section; and after remeasurement the said *Commissioners* (Board[1]) shall cause the ship to the registered anew, or the registry thereof to be altered, as the case may require.

Power to remeasure engine-rooms improperly extended.

29. The *Commissioners of Customs* (Board of Trade[1]) may, with the sanction of the Treasury, appoint such persons to superintend the survey and admeasurement of ships as they think fit; and may, with the approval of the Board of Trade, make such regulations for that purpose as may be necessary; and also, with the like approval, make such modifications and alterations as from time to time become necessary in the tonnage rules hereby prescribed, in order to the more accurate and uniform application thereof, and the effectual carrying out of the principle of admeasurement therein adopted.

Officers may be appointed and regulations made for measurement of ships.

29*a*. Any body corporate or person having power to levy tonnage rates on ships may, if they think fit, with the consent of the Board of Trade, levy such tonnage rates upon the registered tonnage of the ships as determined by the rules for the measurement of tonnage for the time being in force under the principal Acts, notwithstanding that the Local Act or Acts, under which such rates are levied provides for levying the same upon some different

Tonnage rate under Local Acts may be levied on the registered tonnage.

[1] Merchant Shipping Act, 1872, 35 and 36 Vic., c. 73, s. 3.

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system of tonnage measurement.—[Merchant Shipping Act Amendment Act, 1862, 25 and 26 Vic., c. 63, s. 4.]

Ships of foreign countries adopting the rules for measurement of tonnage need not be remeasured in this country.

29*b*. Whenever it is made to appear to Her Majesty that the rule concerning the measurement of tonnage of merchant ships for the time being in force under the principal Act have been adopted by the government of any foreign country, and are in force in that country, it shall be lawful for Her Majesty by order in Council to direct that the ships of such foreign country shall be deemed to be of the tonnage denoted in their certificates of registry or other national papers; and thereupon it shall no longer be necessary for such ships to be remeasured in any port or place in Her Majesty's dominions, but such ships shall be deemed to be of the tonnage denoted in their certificates of registry or other papers, in the same manner, to the same extent, and for the same purposes, in, to, and for which the tonnage denoted in the certificates of registry of British ships is deemed to be the tonnage of such ships.—[Merchant Shipping Act Amendment Act, 1862, 25 and 26 Vic., c. 62, s. 60.]

Tonnage of vessel liable to port-dues how ascertained.

If registered;

29*c*. In order to ascertain the tonnage of any vessel liable to pay port-dues, the following rules shall be observed[1]:—

(*a*) If such vessel be a British registered vessel, or a vessel registered under Act No. X of 1841 or Act No. XI of 1850, or under the laws for the time being in force for the registration of vessels in India, the conservator may require the owner or master of such vessel, or any person having possession of her register, to produce such register for inspection. If any such owner, master, or other person neglect or refuse to produce such register, or otherwise to satisfy the conservator as to what is the true tonnage of the vessel in respect of which such port-dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the conservator may cause such vessel to be measured, and the tonnage thereof to be ascertained; and in such case the owner or master of such vessel shall also be liable to pay the expenses of such measurement.

If not registered.

(*b*) If such vessel be not a British registered vessel, or a vessel registered under Act No. X of 1841 or Act No. XI of 1850, or under the laws for the time being in force for the registration of vessels in India, and the owner or master thereof fail to satisfy the conservator as to what is her true tonnage according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels, the conservator shall cause such vessel to be measured and the tonnage thereof, according to the mode aforesaid, to be ascertained; and in such case the owner or master of such vessel shall be liable to pay the expenses of such measurement.—[Indian Ports Act, 1875—Act XII of 1875, s. 51.]

[1] See s. 299 *f*.

Registry of British and other Ships.

Registry of Ships.

Registrars of British ships.

30. The following persons are required to register British ships, and shall be deemed registrars for the purposes of this Act (that is to say)—

(1) At any port or other place in the United Kingdom or Isle of Man approved by the Commissioners of Customs for the registry of ships, the collector, comptroller, or other principal officer of Customs for the time being:

(2) In the Islands of Guernsey and Jersey, the principal officers of Her Majesty's Customs, together with the Governor, Lieutenant-Governor, or other person administering the government of such islands respectively:

(3) In Malta, Gibraltar, and Heligoland, the Governor, Lieutenant-Governor, or other person administering the government of such places respectively:

(4) At any port or place so approved as aforesaid within the limits of the charter but not under government of the East India Company, and at which no custom-house is established, the collector of duties, together with the Governor, Lieutenant-Governor, or other person administering the government:

(5) At the ports of Calcutta, Madras, and Bombay, the master attendants, and at any other port or place so approved as aforesaid within the limits of the charter and under the government of the East India Company, the collector of duties, or any other person of six years standing in the civil service of the said Company who is appointed by any of the governments of the said Company to act for this purpose:

(6) At every other port or place so approved as aforesaid within Her Majesty's dominions abroad, the collector, comptroller, or other principal officer of Customs or of navigation laws, or if there is no such officer resident at such port or place, the Governor, Lieutenant-Governor, or other person administering the government of the possession in which such port or place is situate.

Registrars of British ships in British possessions.

30a. It shall be lawful for Her Majesty, by order in Council from time to time, to declare, with respect to the British possession mentioned in the order, the description of persons who are to be registrars of British ships in that British possession, and to revoke any order so made. After the date specified in the order, or, if no date is specified, after the date of the proclamation of the order in the British possession, the order shall have effect as if it were contained in section 30 of the Merchant Shipping Act, 1854.—[Merchant Shipping (Colonial) Act, 1869, 32 Vic., c. 11, s. 6.]

Registrar.

30b. The persons authorised to make such registry, and to grant such certificates as aforesaid, shall be the persons now authorised to make registry of ships or vessels under the statute 3 & 4 W. IV., ch. 55, and such other or different persons as the local Governments may from time to time appoint

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for the ports under their respective presidencies.—[Ship Registry—Act X of 1841, s. 3.]

Vessels to be registered and marked with number, burthen, and indication of place of registry.

30*c*. Every vessel plying on the river Indus and its tidal channels within the Province of Sindh shall be registered by an officer appointed for the purpose, who shall be called the Registrar of boats, and every vessel so registered shall be marked or branded with a number, the registered burthen, and a letter or letters indicating the place of registry.—[Registry of Vessels on the Indus—Bom. Act I of 1863, s. 1].

Substitution of Governor abroad for Commissioners of Customs, and of consul for Justice.

31. The Governor, Lieutenant-Governor, or other person administering the Government in any British possession where any ship is registered under the authority of this Act, shall, with regard to the performance of any act or thing relating to the registry of a ship or of any interest therein, be considered in all respects as occupying the place of the Commissioners of Customs; and any British consular officer shall, in any place where there is no Justice of the Peace, be authorised to take any declaration hereby required or permitted to be made in the presence of a Justice of the Peace.

Registrar to keep register books.

32. Every registrar shall keep a book, to be called "The Register Book," and enter therein the particulars hereinafter required to be registered.

Book of registry.

32*a*. At every port where registry shall be made in pursuance of this Act, a book shall be kept by the registering officer in which all the particulars contained in the form of the certificate of the registry hereinbefore directed to be used shall be duly entered; and every registry shall be numbered in progression beginning such progressive numeration at the commencement of each and every year. And such registering officer shall forthwith, or within one month at the furthest, send to the Government of the Presidency to which he is subordinate a true and exact copy, together with the number of every certificate which shall be by him so granted.—[Ship Registry—Act X of 1841, s. 4.]

Name, number, burthen, to be registered in a book.

32*b*. The name and number and burthen of every vessel plying as aforesaid, and the name of the owner thereof, shall be registered in a book kept for that purpose by the registrar of boats; and whenever any change shall take place in the burthen of such vessel plying as aforesaid, or in the name or names of the owner thereof, such vessel shall be again registered.—[Registry of Vessels on Indus—Bom. Act I of 1863, s. 2.]

Port of registry of British ship.

33. The port of place at which any British ship is registered for the time being shall be considered her port of registry or the port to which she belongs.

Her Majesty may by order in Council declare certain foreign ports ports of registry.

33*a*. Where, in accordance with the Foreign Jurisdiction Acts, Her Majesty exercises jurisdiction within any port out of Her Majesty's dominions, it shall be lawful for Her Majesty, by order in Council, to declare such port a port of registry (in this Act referred to as a foreign port of registry), and by the same or any subsequent order in Council to declare the

description of persons who are to be the registrars of British ships at such foreign port of registry, and to make regulation with respect to the registry of British ships thereat. *Registry of Ships.*

Upon such order coming into operation it shall have effect as if it were enacted in the Merchant Shipping Acts, 1854 to 1873, and shall, subject to any exceptions and regulations contained in the order, apply in the same manner, as near as may be, as if the port mentioned in the order were an ordinary port of registry.—[Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 29.]

33*b*. The ports at which registration shall be made shall be the ports of Calcutta, Madras, Bombay, Singapore, and such other places subordinate to the local Governments of India as such Governments respectively may, from time to time, declare to be registering ports[1] under this Act: provided that ships or vessels built at any place other than any of such ports shall be allowed to make their first voyage to any of such ports, being the ports, at which it is intended they shall be registered under a certificate to be granted by the principal British officer at the place where the ship is built, or if there be no British officer in authority there, then by three merchants of such place, which certificate shall contain all the particulars with regard to the ownership and description of the ships or vessels contained in a certificate of registry, and shall specify the ports at which it is intended that they shall respectively be registered, and which certificate shall have all the effect of a certificate of registry under this Act, during the first voyage from the place of building to the ports at which the ships or vessels respectively shall be afterwards registered: provided that such ships or vessels so proceeding on their first voyage as aforesaid shall be deemed British ships only whilst duly prosecuting such first voyage for the purpose of registry, and if they be not registered within a reasonable time after their arrival at the port of registry, the owner or owners, or master or other persons having or taking the command or charge of such ship or vessel shall be liable [on conviction before a presidency magistrate[2] or a magistrate of the first class] to a penalty not exceeding five thousand rupees.—[Ship Registry—Act X of 1841, s. 2.] *Ports of registry.*

33*c*. All ships or vessels registered under this Act shall be deemed to belong to the ports at which they shall be respectively registered. And all ships or vessels being registered, or in respect of which passes may have been granted which are unexpired at the time of passing this Act, shall, for the purpose of being deemed British ships, be deemed to belong to the ports at which they may have been registered or when passes shall have been granted which are unexpired, at which such passes may have been respectively granted. And such ships or vessels built and owned as required by the Statute 3 & 4 *Ports to which ships belong.*

[1] Rangoon and Akyab have been declared under this section. See *Calcutta Gazette* for 1854, p. 848; for 1856, p. 1549. So Kyook Phyoo, Bassein, Tavoy, and Mergui—*Gazette of India*, February 11, 1871, part I, p. 75.

[2] Amended by Act V of 1883, s. 38.

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Vic., ch. 56, shall continue subject to all the rules in force at the respective presidencies before the passing of this Act, touching the registering measurement, granting passes or other requisitions in respect of the same, and shall not be subject to the provisions of this Act, or any provisions of the statute law, a compliance with which may heretofore have been necessary in order that ships or vessels built and owned as aforesaid might be deemed British ships for the purposes of trade.—[Ship Registry—Act X of 1841, s. 26.]

Name of ship.

34. *The following rules shall be observed with respect to the names of British registered ships (that is to say)—*

(1) *Before registry the name of each ship and of the port to which she belongs shall be painted on a conspicuous part of her stern on a dark ground in white or yellow letters of a length not less than four inches:*

(2) *No change shall be made in the name of any registered ship:*

(3) *No concealment, absence, or avoidable obliteration of the above names shall be permitted, except for the purpose of escaping capture by an enemy:*

(4) *The ship shall not be described by or with the knowledge of the owner or master by any name other than the one by which she is registered.*—[Repealed by Merchant Shipping Act, 1871, 34 and 35 Vic., c. 110, s. 12.]

Name of ship.

34*a*. It shall not be lawful for any owner or owners of any ship or vessel to give any name to such ship or vessel other than that by which she was first registered in pursuance of this Act, and that the owner or owners of all and every ship or vessel which shall be so registered shall, before such ship or vessel after such registry, begin to take in any cargo, paint, or cause to be painted, in white or yellow letters of a length of not less than four inches, upon a black ground on some conspicuous part of the stern, the name by which such ship or vessel shall have been registered pursuant to this Act, and the port to which she belongs in a distinct and legible manner, and shall so keep and preserve the same, and that if such owner or owners, or master or other person having or taking the charge or command of such ship or vessel, shall permit such ship or vessel to begin to take in cargo before the name of such ship or vessel has been so painted as aforesaid, or shall wilfully alter, erase, obliterate, or in any wise hide or conceal, or cause or procure or permit the same to be done, or shall, in any written or printed paper, or other document, describe such ship or vessel by any name other than that by which she was first registered pursuant to this Act, or shall verbally describe, or cause or procure or permit such ship or vessel to be described by any other name to any officer or officers of revenue in the due execution of his or their duty, then and in every such case the certificate of registry shall thenceforth become utterly void, and such owner or owners, or master or other person having or taking the charge or command of such ship or vessel shall be liable [on conviction

before a presidency magistrate or a magistrate of the first class][1] to a penalty not exceeding ten thousand rupees.—[Ship Registry—Act X of 1841, s. 17.] *Registry of Ships.*

As to name on Bombay coasting vessels, see ss. 544r. and 544s.

Particulars to be marked on British ships.

34b. Every British ship registered after the passing of this Act shall, before registry, and every British ship registered before the passing of this Act shall, on or before the first day of January one thousand eight hundred and seventy-four, be permanently and conspicuously marked to the satisfaction of the Board of Trade, as follows:—

Her name shall be marked on each of her bows, and her name and the name of her port of registry shall be marked on her stern, on a dark ground in white or yellow letters, or on a light ground in black letters, such letters to be of a length not less than four inches, and of proportionate breadth:

Her official number and the number denoting her registered tonnage shall be cut in on her main beam:

A scale of feet denoting her draught of water shall be marked on each side of her stem and of her sternpost in Roman capital letters or in figures not less than six inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby. Such letters or figures shall be marked by being cut in and painted white or yellow on a dark ground, or in such other way as the Board of Trade may from time to time approve.

The Board of Trade may, however, exempt any class of ships from the requirements of this section or any of them.

If the scale of feet showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall incur a penalty not exceeding one hundred pounds. The marks required by this section shall be permanently continued, and no alteration shall be made therein, except in the event of any of the particulars thereby denoted being altered in the manner provided by the Merchant Shipping Acts, 1854 to 1873.

Any owner or master of a British ship who neglects to cause his ship to be marked as aforesaid, or to keep her so marked, and any person who conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate, any of the said marks, except in the event aforesaid, or except for the purpose of escaping capture by an enemy, shall for each offence incur a penalty not exceeding one hundred pounds, and any officer of Customs on receipt of a certificate from a surveyor or inspector of the Board of Trade that a ship is insufficiently or inaccurately marked may detain the same until the insufficiency or inaccuracy has been remedied:

Provided that no fishing vessel duly registered, lettered, and numbered in

[1] Act V of 1883, s. 38.

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pursuance of the Sea Fisheries Act, 1868, shall be required to have her name and port of registry marked under this section:

Provided also, that if any registered British ship is not within a port of the United Kingdom at any time before the first day of January one thousand eight hundred and seventy-four, she shall be marked as by this section required within one month after her next return to a British port of registry subsequent to that date.—[Merchant Shipping Act, 1873, 36 and 37 Vic., c. 85, s. 3.]

Draught of water to be recorded.

34*c*. The Board of Trade may, in any case or class of cases in which they think it is expedient to do so, direct any person appointed by them for the purpose to record, in such manner, and with such particulars as the Board of Trade may direct, the draught of water of any sea-going ship as shown on the scale of feet on her stem and on her sternpost, upon her leaving any dock, wharf, port, or harbour for the purpose of proceeding to sea; and such person shall thereupon keep such record, and shall from time to time forward the same or a copy thereof to the Board of Trade; and such record or any copy thereof, if produced by or out of the custody of the Board of Trade, shall be admissible in evidence of the draught of water of the ship at the time specified in the record.

The master of every British sea-going ship shall, upon her leaving any dock, wharf, port, or harbour for the purpose of proceeding to sea, record her draught of water in the official log book (if any), and shall produce such record to any principal officer of Customs whenever required by him to do so, or in default of such production shall incur a penalty not exceeding twenty pounds.—[Merchant Shipping Act, 1871, 34 and 35 Vic., c. 110, s. 5.]

Particulars to be entered in record of draught of water.

34*d*. The record of the draught of water of any sea-going ship required under section 5 of the Merchant Shipping Act, 1871, shall, in addition to the particulars thereby required, specify the extent of her clear side in feet and inches.

The term "clear side" means the height from the water to the upper side of the plank of the deck from which the depth of hold as stated in the register is measured, and the measurement of the clear side is to be taken at the lowest part of the side.

Every master of a sea-going ship shall, upon the request of any person appointed to record the ship's draught of water, permit such person to enter the ship and to make such inspections and take such measurements as may be requisite for the purpose of such record, and any master who fails so to do, or impedes or suffers anyone under his control to impede any person so appointed in the execution of his duty, shall for each offence incur a penalty not exceeding five pounds.—[Merchant Shipping Act, 1873, 36 and 37 Vic., c. 85, s. 4.]

Rules to be observed in naming of ships.

34*e*. With respect to the names of British ships, the followings rules shall be observed:—

(1) A ship shall not be described by any name other than that by which she is for the time being registered:

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(2) No change shall be made in the name of a ship without the previous permission of the Board of Trade signified in writing under their seal, or under the hand of one of their secretaries or assistant secretaries. Upon such permission being granted, the ship's name shall forthwith be altered in the register book, in the ship's certificate of registry, and on her bows and stern:

(3) If in any case it is shown to the satisfaction of the Board of Trade that the name of any ship has been changed without such permission as aforesaid, they shall direct that her name be altered into that which she bore before such change, and the name shall be altered in the register book, in the ship's certificate of registry, and on her bows and stern accordingly:

(4) Where a ship having once been registered has ceased to be so registered, no person, unless ignorant of such previous registry (proof whereof shall lie on him), shall apply to register, and no registrar shall knowingly register, such ship, except by the name by which she was previously registered, unless with the permission of the Board of Trade granted as aforesaid.

Every person who acts or suffers any person under his control to act in contravention of this section, or who omits to do, or suffers any person under his control to omit to do, anything required by this section, shall for each offence incur a penalty not exceeding one hundred pounds, and any principal officer of Customs may detain the ship until the provisions of this section are complied with.

Application for a change of name shall be made in writing to the Board of Trade. If the Board are of opinion that the application is made on reasonable grounds, they may entertain the same, and shall thereupon require notice thereof to be published in such form and manner as they think fit.—[Merchant Shipping Act, 1871, 34 and 35 Vic., c. 110, s. 6.]

Rules as to names of foreign ships placed on British register.

34A. Where a foreign ship, not having at any previous time been registered as a British ship, becomes a British ship, no person shall apply to register, and no registrar shall knowingly register such ship, except by the name which she bore as a foreign ship immediately before becoming a British ship, unless with the permission of the Board of Trade granted in manner directed by section 6 of the Merchant Shipping Act, 1871.

Any person who acts or suffers any person under his control to act in contravention of that section shall for each offence incur a penalty not exceeding one hundred pounds.—[Merchant Shipping Act, 1873, 36 and 37 Vic., c. 85, s. 5.]

Application for registry by whom to be made.

35. Every application for the registry of a ship shall in the case of individuals be made by the person requiring to be registered as owner, or by some one or more of such persons if more than one, or by his or their duly authorised agent, and in the case of bodies corporate by their duly authorised agent; the authority of such agent, if appointed by individuals, to be

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testified by some writing under the hands of the appointors, and if appointed by a body corporate, by some instrument under the common seal of such body corporate.

Owner to apply for certificate of registry. Renewal of lost certificate.

35a. The owner of every vessel[1] plying as aforesaid shall apply to the registrar of boats and obtain from him a certificate of registry as aforesaid, and in the case of any certificate being lost or destroyed, a renewed certificate may be obtained in the same manner, and on the payment of the fees hereinafter mentioned.—[Registry of Vessels on Indus—Bom. Act I of 1863, s. 3.]

As to Bombay coasting vessels, see s. 544v.

Survey of ship.

36. Before registry, the ship shall be surveyed by a person duly appointed under this Act; and such surveyor shall grant certificate in the form marked A in the schedule hereto, specifying her tonnage, build, and such other particulars descriptive of the identity of the ship as may from time to time be required by the Board of Trade; and such certificate shall be delivered to the registrar before registry.

FORM A. (See Section 36.)

CERTIFICATE OF SURVEYOR.

Name of Ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.

Number of decks		Build	*Carvel or clincher.*
Number of masts		Gallery	*Description of.*
Rigging	*Nature of, and whether standing or running bowsprit.*	Head	*Kind of.*
		Framework	*Wood or other material.*
Stern	*Round, square, or other description.*		

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships		

[1] A barge or flat towed by a steamer, and plying in no other manner, shall not for the purposes of this Act be considered a vessel (s. 17, Bom. Act I of 1863).

CERTIFICATE OF SURVEYOR—*contd.*

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	No. of Tons.
Tonnage.	
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any, *viz.*—	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total	

(*) *Additional particulars for Steamers.*	Tons.	
Deduction for space required for propelling power (say whether $\frac{37}{100}$ths or $\frac{35}{100}$ths, or as measured)		
Length of engine-room (if measured)	Feet. Tenths.	
Engines	No. of engines.	(*) *Omit this part if she has no steam power.*
Combined power (estimated horse-power)	No. of horses-power.	
Register tonnage, after making deduction for space for propelling power in steamers. (*)		

I, the undersigned *A.B.*, of , having surveyed the above-named ship, hereby certify that the above particulars are true.

(Signed)

Dated at
the day of , 18 .

36*a*. And in order to enable the registering officer to grant a certificate truly and accurately describing every ship or vessel to be registered in pursuance of this Act, and also to enable all other officers of Customs on due examination to discover whether any such ship or vessel is the same with that for which a certificate is alleged to have been granted, it is hereby enacted that previous to the registering or granting of any certificate of registry as aforesaid, some one or more person or persons appointed by the local Governments respectively, taking to his or their assistance if he or they shall judge it necessary, one or more person or persons skilled in the building and admeasurement of ships, shall go on board of every such ship or vessel that is to be registered, and shall strictly and accurately examine and admeasure every such ship or vessel as to all and every particular contained in the form

Measurement to be made.

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of the certificate[1] hereinbefore directed in the presence of the master, or of any other person who shall be appointed for that purpose on the part of the owner or owners, or in his or their absence by the said master, and shall deliver a true and just account in writing of all such particulars of the build, description, and admeasurement of every such ship or vessel as are specified in the form of the certificate above recited to the officer authorised to make such registry and grant such certificate of registry as aforesaid; and the said master or other person attending on the part of the owner or owners is hereby required to sign his name also to the certificate of such surveying or examining officer, in testimony of the truth thereof, provided such master or other person shall consent and agree to the several particulars set forth and described therein.—[Ship Registry—Act X of 1841, s. 7.]

Rules as to entries in register book.

37. The following rules shall be observed with respect to entries in the register book (that is to say)—

(1) The property in a ship shall be divided into sixty-four shares;

(2) Subject to be provisions with respect to joint owners or owners by transmission hereinafter contained, not more than [sixty-four[2]] individuals shall be entitled to be registered at the same time as owners of any one ship; but this rule shall not affect the beneficial title of any number of persons, or of any company, represented by or claiming under or through any registered owner or joint owner;

(3) No person shall be entitled to be registered as owner of any fractional part of a share in a ship; but any number of persons, not exceeding five, may be registered as joint owners of a ship, or of a share or shares therein;

(4) Joint owners shall be considered as constituting one person only as regards the following rule relating to the number of persons entitled to be registered as owners, and shall not be entitled to dispose in severally of any interest in any ship, or in any share or shares therein, in respect of which they are registered.

(5) A body corporate may be registered as owner by its corporate name.

Declaration of ownership by individual owner.

38. No person shall be entitled to be registered as owner of a ship, or any share therein, until he has made and subscribed a declaration, in the form marked B in the schedule hereto, referring to the ship as described in the certificate of the surveyor, and containing the following particulars (that is to say)—

(1) A statement of his qualification to be an owner of a share in a British ship;

(2) A statement of the time when and the place where such ship was built, or (if the ship is foreign-built, and the time and place of building not known) a statement that she is foreign-built, and

[1] See s. 19*a*.

[2] 43 and 44 Vic., c. 18, s. 2.

that he does not know the time or place of her building; and, in addition thereto, in the case of a foreign ship, a statement of her foreign name, or (in the case of a ship condemned) a statement of the time, place, and court at and by which she was condemned:

(3) A statement of the name of the master;

(4) A statement of the number of shares in such ship of which he is entitled to be registered as owner:

(5) A denial that, to the best of his knowledge and belief, any unqualified person or body of persons is entitled as owner to any legal or beneficial interest in such ship, or any share therein:

The above declaration of ownership shall be made and subscribed in the presence of the registrar, if the declarant reside within five miles of the custom-house of the port of registry, but if beyond that distance, in the presence of any registrar, or of any justice of the peace.

FORM B. (See Section 38.)

DECLARATION OF OWNERSHIP BY INDIVIDUAL OWNER.

Name of Ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.

Number of decks		Build	*Carvel or clincher.*
Number of masts		Gallery	*Description of.*
Rigging	*Nature of, and whether standing or running bowsprit.*	Head	*Kind of.*
		Framework	*Wood or other material.*
Stern	*Round, square, or other description.*		

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships		

Tonnage.	No. of Tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any, *viz.*—	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total	

DECLARATION OF OWNERSHIP BY INDIVIDUAL OWNER—*contd.*

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(*) *Additional particulars for Steamers.*	
Deduction for space required for propelling power (say whether $\frac{27}{100}$ths or $\frac{33}{100}$ths, or as measured)	Tons.
Length of engine-room (if measured)	Feet. Tenths.
Engines	No. of engines.
Combined power (estimated horse-power)	No. of horses-power.
Register tonnage, after making deduction for space for propelling power in steamers: (*)	

(*) *Omit this part if she has no steam power.*

I, the undersigned *A. B.*, of , in the country of , declare as follows:

(1) I am a natural-born British subject born at [*naming birth-place*],

and have never taken the oath of allegiance to any foreign state. } *or* { and have since I took the oath of allegiance to a foreign state [*naming state*], and on the day of , taken the oath of allegiance to Her Majesty, and am resident† at [*naming place*], being a place within Her Majesty's dominions.

or

I am

a denizen by letters of denization dated the day of , } *or* { naturalized by Act of Parliament of the United Kingdom, of [*cite the year of the reign in which the Act was passed, its chapter and title*]. } *or* { naturalized by an ordinance of the proper legislative authority of [*naming British possession*], [*cite the year in which the ordinance was passed, its chapter and title*].

† *If the declarant is a natural-born subject who has taken the oath of allegiance to a foreign state, or a denizen or naturalized subject, and is resident in a country not within Her Majesty's dominions, he must declare, in addition, that "he is "a member of "some British "factory or part-"ner in some "house actually "carrying on "business in the "United King-"dom, or in "some British "possession" [*naming the house, and also the place where it carries on its business*].*

and am resident at [*naming place*], being a place within Her Majesty's dominions.

And I have

since I so became a denizen, } *or* { since the passing of the said Act or ordinance,

and on the day of , taken the oath of allegiance to Her Majesty.

(2) The ship, the description of which is prefixed to this my declaration,

was built at [*naming the country and place*], on the day of , and her foreign name is [*these words to be added if the ship is foreign*]. } *or* { is foreign-built, and I do not know the time when of the place where she was built, and her foreign name is } *or* { was condemned by the court of [*naming court*], on the day of , at

(3) *C. D.*, of , is the master of the said ship.

(4) I am entitled to be registered as ‡owner of shares in the said ship.

‡ *If the declaration is made by a joint owner, add the word "joint" before owner.*

(5) To the best of my knowledge and belief no person or body of persons, other than such persons or bodies of persons as are by the Merchant Shipping Act, 1854, qualified to be owners of British ships, is entitled as owner to any interest whatever, either legal or beneficial in the said ship.

And I make this solemn declaration conscientiously believing the same to be true. *Registry of ships.*

(Signed)_____

Dated at ,

the day of ; 18 .

Made and subscribed by the above-named *A. B.*
in the presence of me,

(Signed)_____ [*name of registrar or justice of the peace acting in and for* .]

38*a*. No registry shall henceforth be made or certificate be granted, until the following declaration be made or subscribed before the registering officer, by the owner or major part of the owners of the ship or vessel required to be registered:— *Declaration of ownership.*

I, *A. B.*, of (place of residence and occupation), do truly declare that the ship or vessel (name) of (port or place) whereof (master's name) is at present master, being (kind of built, burthen, *et cetera*, as described in the certificate of the surveying officer) was (when and where) built, and that I the said (*A. B.*), and the other owners (names and occupations, if any, and where they respectively reside) am (or are) sole owner (or owners) of the said vessel, and that no other person or persons whatever hath or have any right, title, interest, share or property therein or thereto; and that I, the said (*A. B.*), and the said other owners (if any) am (or are) truly and *bonâ fide* a subject (or subjects) of Her Majesty for whom the Governor General of India in Council has power to legislate, and that no person being subject as aforesaid, directly or indirectly, hath any share or part interest in the said ship or vessel: provided that if the registering officer shall see occasion to doubt the truth of any of the facts contained in the above declaration, he shall not deem such declaration to be conclusive, but may refuse the registry or certificate, and his discretion exercised in this behalf shall be subject only to an appeal to the local Government to which he is subordinate.—[Ship Registry—Act X of 1841, s. 5.]

38*b*. In case the required number of joint owners of any ship or vessel shall not personally attend to make and subscribe the declaration hereinbefore directed to be made and subscribed, then and in such case such owner or owners as shall personally attend and make and subscribe the declarations aforesaid shall further declare that the part owner or part owners of such ship or vessel then absent is or are not resident within twenty miles of such port or place, and hath or have not to the best of his or their knowledge or belief wilfully absented himself or themselves in order to avoid the making the declaration hereinbefore directed to be made and subscribed, or is or are prevented by illness from attending to make and subscribe the said declaration.—[Ship Registry—Act X of 1841, s. 6.] *Further declaration by owners who attend.*

39. No body corporate shall be entitled to be registered as owner of a ship, or of any share therein, until the secretary or other duly appointed public officer of such body corporate has made and subscribed in the presence of the *Declaration of ownership by body corporate.*

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registrar of the port of registry a declaration, in the form marked C in the schedule hereto, referring to the ship as described in the certificate of the surveyor, and containing the following particulars (that is to say)—

(1) A statement of such circumstances of the constitution and business of such body corporate as prove it to be qualified to own a British ship:

(2) A statement of the time when and the place where such ship was built, or (if the ship is foreign-built, and the time and place of building unknown) a statement that she is foreign-built, and that he does not know the time or place of her building; and, in addition thereto, in the case of a foreign ship, a statement of her foreign name, or (in the case of a ship condemned) a statement of the time, place, and court at and by which she was condemned:

(3) A statement of the name of the master:

(4) A statement of the number of shares in such ship of which such body corporate is owner:

(5) A denial that, to the best of his knowledge and belief, any unqualified person or body of persons is entitled as owner to any legal or beneficial interest in such ship, or any share therein.

FORM C. (See Section 39.)

DECLARATION OF OWNERSHIP ON BEHALF OF A BODY CORPORATE AS OWNER.

Name of Ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.

Number of decks .		Build . . .	*Carvel or clincher.*
Number of masts .		Gallery . . .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running bowsprit.*	Head . . .	*Kind of.*
		Framework . .	*Wood or other material.*
Stern . . .	*Round, square, or other description.*		

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships		

Tonnage.	No. of Tons.
Tonnage under tonnage deck	
Closed in spaces above the tonnage deck, if any, *viz.*—	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total . . .	

DECLARATION OF OWNERSHIP ON BEHALF OF A BODY CORPORATE AS OWNER—*continued.*

(*) *Additional particulars for Steamers.*	
Deduction for space required for propelling power (say whether $\frac{87}{100}$ths or $\frac{94}{100}$ths, or as measured)	No. of Tons.
Length of engine-room (if measured)	Feet. Tenths.
Engines	No. of engines.
Combined power (estimated horse-power)	No. of horses-power.
Register tonnage, after making deduction for space for propelling power in steamers (*)	

(*) *Omit this part if the ship has no steam power.*

I, the undersigned *A. B.*, of ; in the country of , [*Secretary*] or [*duly appointed Public Officer*] of the company, declare as follows:—

(1) The said company was incorporated by or by virtue of an Act of Parliament of the United Kingdom, [*cite the year of the reign in which the Act was passed, its chapter and title*], or a charter granted by Her Majesty, and dated the day of , or an Act or ordinance of the legislature of [*cite the year in which the Act or ordinance was passed, its chapter and title*], or the Act 7 & 8 Vict., c. 110, from the day of , being the date of the certificate of complete registration.

(2) The said company is subject to the laws of the United Kingdom, or of the British possession of and has its principal place of business at

(3) The ship, the description of which is prefixed to this my declaration, was built at [*naming the country and place*], on the day of , and her foreign name is [*these words to be added if the ship is foreign*], or is foreign-built, and I do not know the time when or the place where she was built, and her foreign name is, or was condemned by the court of [*naming court*], on the day of , at

(4) *C. D.*, of , is the master of the said ship.

(5) The said company is entitled to be registered as owner of shares in the said ship.

(6) To the best of my knowledge and belief no person or body of persons, other than such persons or bodies of persons as are by the Merchant Shipping Act, 1854, qualified to be owners of British ships, is entitled as owner to any interest whatever, either legal or beneficial, in the said ship.

And I make this solemn declaration conscientiously believing the same to be true.

(Signed)_____

Dated at
the day of ,18 .

Made and subscribed by the above-named *A. B.*
in the presence of me,

(Signed)_____ {[*Name of registrar.*]}

Registry of ships.

Evidence to be produced on registry.

40. Upon the first registry of a ship there shall, in addition to the declaration of ownership, be produced the following evidence (that is to say)—

(1) In the case of a British-built ship, a certificate (which the builder is hereby required to grant under his hand) containing a true account of the proper denomination and of the tonnage of such ship as estimated by him, and of the time when and of the place where such ship was built, together with the name of the party (if any) on whose account he has built the same, and if any sale or sales have taken place, the bill or bills of sale under which the ship or share therein has become vested in the party requiring to be registered as owner:

(2) In the case of a foreign-built ship, the same evidence as in the case of a British-built ship, unless the person requiring to be registered as owner, or, in the case of a body corporate, the duly appointed officer declares that the time or place of her building is unknown, or that the builder's certificate cannot be procured, in which case there shall be required only the bill or bills of sale under which the ship or share therein became vested in the party requiring to be registered as owner thereof:

(3) In the case of a ship condemned by any competent court, an official copy of the condemnation of such ship.

Certificate of building.

40a. All and every person and persons who shall apply for a certificate of the registry of any ship or vessel shall, and they are hereby required to, produce to the person or persons authorised to grant such certificate a true and full particular under the hand of the builder of such ship or vessel, or in case the want of such certificate can be satisfactorily accounted for, then to produce other sufficient evidence of the proper denomination, and of the time when and the place where such ship or vessel was built; and also an exact account of the tonnage of such ship or vessel, and shall also make and subscribe a declaration before the person or persons hereinbefore authorised to grant such certificate that the ship or vessel for which such certificate is required is the same with that which is so described by the builder as aforesaid.—[Ship Registry—Act X of 1841, s. 18.]

Penalty on builder for false certificate.

41. If any builder wilfully makes a false statement in any certificate hereby required to be granted by him, he shall for every such offence incur a penalty not exceeding one hundred pounds.

Particulars of entry in register book.

42. As soon as the foregoing requisites to the due registry of a ship have been complied with, the registrar shall enter in the register book the following particulars relating to such ship (that is to say)—

(1) The name of the ship, and of the port to which she belongs:

(2) The details as to her tonnage, build, and description comprised in the certificate hereinbefore directed to be given by the surveyor:

(3) The several particulars as to her origin stated in the declaration or declarations of ownership:

(4) The names and descriptions of her registered owner or owners, and if there is more than one such owner, the proportions in which they are interested in such ship.

Registry of Ships.

42*a*. The name and address of the managing owner for the time being of every British ship registered at any port or place in the United Kingdom shall be registered at the Custom-house of the ship's port of registry.

Ship's managing owner or manager to be registered.

Where there is not a managing owner there shall be so registered the name of the ship's husband or other person to whom the management of the ship is entrusted by or on behalf of the owner; and any person whose name is so registered shall, for the purposes of the Merchant Shipping Acts, 1854 to 1876, be under the same obligations, and subject to the same liabilities, as if he were the managing owner.

If default is made in complying with this section the owner shall be liable, or if there be more owners than one each owner shall be liable in proportion to his interest in the ship, to a penalty not exceeding in the whole one hundred pounds each time the ship leaves any port in the United Kingdom.—[Merchant Shipping Act, 1876, 39 and 40 Vic., c. 80, s. 36.]

No notice taken of trusts.

43. No notice of any trust, express, implied, or constructive, shall be entered in the register book, or receivable by the registrar; and, subject to any rights and powers appearing by the register book to be vested in any other party, the registered owner of any ship or share therein, shall have power absolutely to dispose in manner hereinafter mentioned of such ship or share, and to give effectual receipts for any money paid or advanced by way of consideration.

Equities not excluded by Merchant Shipping Act.

43*a*. It is hereby declared that the expression "beneficial interest," whenever used in the second part of the principal Act, includes interests arising under contract and other equitable interests; and the intention of the said Act is that, without prejudice to the provisions contained in the said Act for preventing notice of trusts from being entered in the register book or received by the registrar, and without prejudice to the powers of disposition and of giving receipts conferred by the said Act on registered owners and mortgagees, and without prejudice to the provisions contained in the said Act relating to the exclusion of unqualified persons from the ownership of British ships, equities may be enforced against owners and mortgagees of ships in respect of their interest therein, in the same manner as equities may be enforced against them in respect of any other personal property.—[Merchant Shipping Act Amendment Act, 1855, 25 and 26 Vic., c. 63, s. 3.]

Certificate of Registry.

Certificate of Registry.

Certificate of registry to be granted.

44. Upon the completion of the registry of any ship the registrar shall grant a certificate of registry, in the form marked D in the schedule hereto, comprising the following particulars (that is to say)—

(1) The name of the ship, and of the port to which she belongs:

Certificate of registry.

(2) The details as to her tonnage, build, and description comprised in the certificate hereinbefore directed to be given by the surveyor:

(3) The name of her master:

(4) The several particulars as to her origin stated in the declaration or declarations of ownership:

(5) The names and descriptions of her registered owner or owners, and if there is more than one such owner, the proportions in which they are respectively interested, indorsed upon such certificate.

Form D. (See Section 44.)

Certificate of Registry.

No. _____

Date of registry.

Name of Ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.

Number of decks		Build	*Carvel or clincher.*
Number of masts		Gallery	*Description of.*
Rigging	*Nature of, and whether standing or running bowsprit.*	Head	*Kind of.*
		Framework	*Wood or other material.*
Stern	*Round, square, or other description.*		

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships		

Tonnage.	No. of Tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any, *viz.*—	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total	

CERTIFICATE OF REGISTRY—*continued.*

Certificate of Registry.

(*) *Additional particulars for Steamers.*	Tons.
Deduction for space required for propelling power (say whether $\frac{37}{100}$ths or $\frac{33}{100}$ths, or as measured)	
	Feet. Tenths.
Length of engine-room (if measured)	
	No. of engines.
Engines	
	No. of horses-power.
Combined power (estimated horse-power)	
Register tonnage, after making deduction for space for propelling power in steamers.(*)	

(*) *Omit this part if she has no steam power.*

I, the undersigned *A. B.*, Registrar of the Port , hereby certify that

(1) The ship, the description of which is prefixed to this my certificate, has been duly surveyed, and that the above description is true.

(2) *C. D.*, of , is the master of the said ship.

(3) The said ship

was built at [*naming the country and place*], on the day of , and her foreign name is [*these words to be added if the ship is foreign*]. *or* is foreign-built, and the time when and the place where she was built is not known, and her foreign name is . *or* was condemned by the court of [*naming court*], on the day of , at .

(4) The several persons and bodies corporate whose names are hereunder written [*or endorsed*] are owners of the above ship, in the proportions set opposite their respective names.

(Signed) _____ Registrar

Names of the several Owners above [*or* within] mentioned.	Number of sixty-fourth shares held by each Owner.
[*Name.*]	*Thirty-two.*
——	*Sixteen.*
——	*Eight.*
——	*Eight.*

(Signed) _____ Registrar.

Dated at _____.

the day of , 18 .

Notice.—A certificate of registry granted under the Merchant Shipping Act, 1854, is not a document of title. It does not necessarily contain notice of *all* changes of ownership, and in no case does it contain an official record of any mortgages affecting the ship.

Grant of terminable certificates of registry.

44*a*. The Governor or officer lawfully administering the Government of any British possession may from time to time, with the approval of one of Her

Certificate of registry.

subject to conditions in colonies.

Majesty's Principal Secretaries of State, make regulations providing that, on an application for registration under the Merchant Shipping Act, 1854, in that possession of any ship not exceeding sixty tons burden, the registrar may grant, in lieu of a certificate of registry as required by that Act, a certificate of registry to be terminable at the end of six months from the granting thereof, or of any longer period; and all certificates of registry granted under any such regulations shall be in such form and shall have effect subject to such conditions as the regulations prescribe.—[The Colonial Shipping Act, 1868, 31 and 32 Vic., c. 129, s. 1.]

Ships to be deemed registered British ships.

44½. Notwithstanding anything in the Merchant Shipping Act, 1854, or in any other Act, any ship to which a certificate is granted under any such regulations shall, while such certificate is in force, and in relation to all things done or omitted during that period, be deemed a registered British ship.—[The Colonial Shipping Act, 1868, 31 and 32 Vic., c. 129, s. 2.]

Change of owners to be indorsed on certificate of registry.

45. WHENEVER any change takes place in the registered ownership of any ship, then if such change occurs at a time when the ship is at her port of registry, the master shall forthwith deliver the certificate of registry to the registrar, and he shall indorse thereon a memorandum of such change; but if such change occurs during the absence of the ship from her port of registry, then upon her first return to such port the master shall deliver the certificate of registry to the registrar, and he shall indorse thereon a like memorandum of the change, or if she previously arrives at any port where there is a British registrar, such registrar shall, upon being advised by the registrar of her port of registry of the change having taken place, indorse a like memorandum thereof on the certificate of registry, and may for that purpose require the certificate to be delivered to him, so that the ship be not thereby detained; and any master who fails to deliver to the registrar the certificate of registry as hereinbefore required, shall incur a penalty not exceeding one hundred pounds.

Change of master to be indorsed on certificate of registry.

46. WHENEVER the master of any British registered ship is changed, the following persons, that is to say, if such change is made in consequence of the sentence of any naval court, the presiding officer of such court, but if the change takes place from any other cause, the registrar, or, if there is no registrar, the British Consular officer resident at the port where such change takes place, shall indorse on the certificate of registry a memorandum of such change, and subscribe his name to such indorsement, and forthwith report the change of master to the *Commissioner of Customs in London* [Registrar General of Shipping and Seamen[1]]: and the officers of Customs at any port situate within Her Majesty's dominions may refuse to admit any person to do any act at such port as master of any British ship, unless his name is inserted in or indorsed upon the certificate of registry of such ship as the last appointed master thereof.

[1] Merchant Shipping Act, 1872, 35 and 36 Vic., c. 73, s. 4.

Certificate of Registry.

Change of master.

46*a*. When and so often as the master of any ship or vessel registered in manner hereinbefore directed shall be changed, the master or owner of such ship or vessel shall deliver to the person or persons hereinbefore authorised to make such registry and grant such certificates of registry at the port where such change shall take place, if it be a port within the territories of the East India Company, the certificate of registry belonging to such ship or vessel, who shall thereupon indorse and subscribe a memorandum of such change, and shall forthwith give notice of the same to the proper officer of the port or place where such ship or vessel was last registered pursuant to this Act, who shall likewise make a memorandum of the same in the book of registers which is hereby directed and required to be kept, and shall forthwith give notice thereof in like manner as of the original entry. But if the change do not take place in any port within the territories of the East India Company, then such delivery, memorandum, and indorsement shall be made and notice given at the first port within the territories of the East India Company at which the new master shall arrive after such change, in default of which delivery of the certificate such new master or any of the owners shall be liable, on conviction before a justice of the peace, to a penalty not exceeding five thousand rupees, recoverable as aforesaid.—[Ship Registry—Act X of 1841, s. 16.]

Power to grant new certificate.

47. The registrar may, with the sanction of the Commissioners of Customs, upon the delivery up to him of the former certificate of registry, grant a new certificate in the place of the one so delivered up.

Provision in case of loss of certificate.

48. In the event of the certificate of registry of any ship being mislaid, lost, or destroyed, if such event occurs at any port in the United Kingdom, the ship being registered in the United Kingdom, or at any port in any British possession, the ship being registered in the same British possession, then the registrar of her port of registry shall grant a new certificate of registry in lieu of and as a substitute for her original certificate of registry; but if such event occurs elsewhere, the master or some other person having knowledge of the circumstances shall make a declaration before the registrar of any port having a British registrar at which such ship is at the time or first arrives after such mislaying, loss, or destruction; and such declaration shall state the facts of the case, and the names and descriptions of the registered owners of such ship, to the best of the declarant's knowledge and belief; and the registrar shall thereupon grant a provisional certificate as near to the form appointed by this Act as circumstances permit, and shall insert therein a statement of the circumstances under which such provisional certificate is granted.

Certificate lost or mislaid.

48*a*. If the certificate of registry of any ship or vessel shall be lost or mislaid, so that the same cannot be found or obtained for the use of such ship or vessel when needful, and proof thereof shall be made to the satisfaction of the registering officer of the port at which the ship is registered, such officer shall and may, where the certificate shall have been lost or mislaid, permit such ship or vessel to be registered *de novo*, and a certificate thereof to be

Certificate of registry.

granted: Provided always that if such ship or vessel be absent and far distant from the port to which she belongs, or by reason of the absence of the owner or owners, or of any other impediment, registry of the same cannot then be made in sufficient time, such registering officer shall and may grant a license for the present use of such ship or vessel, which license shall for the time and to the extent specified therein, and no longer, be of the same force and virtue as a certificate of registry granted under this Act: Provided always that if the certificate of registry shall at any time afterwards be found, the same shall be forthwith delivered to the proper officers of Customs to be cancelled, and that no illegal use be made of the same, in default whereof the original certificate and the renewed certificate and license shall thenceforth become utterly void, and any person wilfully detaining the certificate so required to be cancelled, or making any illegal use thereof, shall be liable, on conviction before any justice, to a penalty not exceeding five thousand rupees, recoverable as aforesaid.—[Ship Registry—Act X of 1841, s. 19.]

Provisional certificate to be delivered up.

49. Every such provisional certificate shall within ten days after the first subsequent arrival of the ship at her port of discharge in the United Kingdom, if registered in the United Kingdom, or if registered elsewhere, at her port of discharge in the British possession within which her port of registry is situate, be delivered up to the registrar thereof, who shall thereupon grant a new one, as near to the form appointed by this Act as circumstances permit; and if the master neglects to deliver up such certificate within such time, he shall incur a penalty not exceeding fifty pounds.

Custody of certificate.

50. The certificate of registry shall be used only for the lawful navigation of the ship and shall not be subject to detention by reason of any title, lien, charge, or interest whatsoever which any owner, mortgagee, or other person may have or claim to have on or in the ship described in such certificate; and if any person whatever, whether interested or not in the ship, refuses on request to deliver up such certificate, when in his possession or under his control, to the person for the time being entitled to the custody thereof for the purposes of such lawful navigation as aforesaid, or to any registrar, officer of the Customs, or other person legally entitled to require such delivery, it shall be lawful for any justice, by warrant under his hand and seal, or for any court capable of taking cognizance of such matter, to cause the person so refusing to appear before him and to be examined touching such refusal; and unless it is proved to the satisfaction of such justice or court that there was reasonable cause for such refusal, the offender shall incur a penalty not exceeding one hundred pounds; but if it is made to appear to such justice or court that the certificate is lost, the party complained of shall be discharged, and such justice or court shall thereupon certify that the certificate of registry is lost.

Delivery of certificate may be required.

Penalty for detention.

Production of certificate of registration.

50a. The owner or person in charge of every vessel plying as aforesaid shall produce, when required by any public officer, the certificate of registry of such vessel.—[Registry of Vessels on the Indus—Bom. Act 1 of 1863, s. 5.]

Certificate of Registry.

Detention of certificate.

50*b*. And whereas it is not proper that any person under any pretence whatever should detain the certificate of registry of any ship or vessel, or hold the same for any purpose other than the lawful use and navigation of the ship or vessel for which it was granted, it is therefore hereby enacted that in case any person who shall have received or obtained by any means or for any purpose whatever the certificate of the registry of any such ship or vessel (whether such person shall claim to be the master or to be the owner or one of the owners of such ship or vessel, or not) shall wilfully detain and refuse to deliver up the same to the proper officers of Customs, for the purposes of such ship or vessel as occasion shall require, or to the person or persons having the actual command, possession, and management of such ship or vessel as the ostensible and reputed master, or as the ostensible and reputed owner or owners thereof, it may and shall be lawful to and for any such last-mentioned person to make complaint on oath of such detainer and refusal to any justice of the peace residing near to the place where such detainer and refusal shall be, and on such complaint the said justice shall, and is hereby required by warrant under his hand and seal to, cause the person so complained against to be brought before him to be examined touching such detainer and refusal, and if it shall appear to the said justice on examination of such person or otherwise the said certificate of registry is not lost or mislaid, but is wilfully detained by the said person, such person shall be subject on conviction before such justice to a penalty not exceeding one thousand rupees, recoverable as aforesaid, and the said justice shall, and he is hereby required to, certify the aforesaid detainer, refusal, and conviction to the persons or persons who granted such certificate of registry for such ship or vessel who shall on the terms and conditions of law being complied with make registry of such ship or vessel *de novo*, and grant a certificate thereof conformably to law, notifying on the back of such certificate the ground upon which the ship or vessel was so registered *de novo*; and if the person who shall have detained and refused to deliver up such certificate of registry as aforesaid, or shall be verily believed to have detained the same, shall have absconded so that the said warrant of the justice cannot be executed upon him, and proof thereof shall be made to the satisfaction of the registering officer of the port at which the ship or vessel was registered, it shall be lawful for the said officer to permit such ship or vessel to be registered *de novo*, or otherwise, in his discretion, to grant a license for the present use of such ship or vessel in like manner as is hereinbefore provided in the case wherein the certificate of registry is lost or mislaid.—[Ship Registry—Act X of 1841, s. 20.]

Penalty for infringement.

50*c*. In case any vessel plying as aforesaid shall not be registered, marked, or branded, in all respects as hereinbefore directed; or

in case such vessel shall not be furnished with a proper certificate of registry; or

in case the owner or person in charge of such vessel shall not produce such certificate when required as aforesaid.

Certificate of registry.

the owner or person in charge of such vessel shall, on conviction thereof before a magistrate, justice of the peace, or person exercising the powers of a magistrate within the province of Sindh, be liable to a fine not exceeding ten times the amount of the fees payable annually in respect of the registry of such vessel; which fine, if not paid, may be recovered by sale of such vessel, her furniture, ammunition, tackle, and apparel.—[Registry of Vessels on the Indus—Bom. Act I of 1863, s. 6.]

Mode of proceeding if detainer or party absconded.

51. If the person charged with such detainer or refusal is proved to have absconded, so that the warrant of the justice or process of the court cannot be served upon him, or if he persists in his refusal to deliver the certificate, such justice or court shall certify the fact, and the same proceedings may then be taken as in the case of a certificate of registry mislaid, lost, or destroyed, or as near thereto as circumstances permit.

Penalty for using improper certificate.

52. If the master or owner of any ship uses or attempts to use for the navigation of such ship a certificate of registry not legally granted in respect of such ship, he shall be guilty of a misdemeanor; and it shall be lawful for any commissioned officer on full pay in the military or naval service of Her Majesty, or any British officer of Customs, or any British Consular officer, to seize and detain such ship, and to bring her for adjudication before the High Court of Admiralty in England or Ireland, or any court having Admiralty jurisdiction in Her Majesty's dominions; and if such court is of opinion that such use or attempt at use has taken place, it shall pronounce such ship, with her tackle, apparel, and furniture, to be forfeited to Her Majesty, and may award such portion of the proceeds arising from the sale of such ship as it may think just to the officer so bringing in the same for adjudication.

52*a*. If such certificate as aforesaid shall be sold, lent, or otherwise disposed of to any person or persons whatever than those for whose use it is granted, or shall be made use of for the service of any other ship or vessel than the ship or vessel for which it is granted, such certificate shall thenceforth be utterly void, and the master or any owner of the ship or vessel who shall be proved to have sold, lent, or disposed of such certificate or made use of the same as aforesaid, or shall have concurred in or been privy to the committing any such offence, shall be liable [on conviction before a presidency magistrate or a magistrate of the first class] to a penalty not exceeding ten thousand rupees. And in case such ship or vessel shall be lost or taken by the enemy, burnt, or broken up or otherwise prevented from returning to the port at which she is registered, or shall on any account have lost and forfeited the privileges of a British ship, or shall have been seized and legally condemned for illicit trading, or shall have been taken in execution for debt and sold by due process of law, or shall have been sold to the Crown or the East India Company, or shall under any circumstances have been registered *de novo*, the certificate, if preserved, shall be delivered up within one month after the arrival of the master in any port or place in the territories of the East

India Company to the registering officer at such port, in default whereof the master or any of the owner shall be liable [on conviction before a presidency magistrate or a magistrate of the first class] to a penalty not exceeding five thousand rupees. And if any person not being such subject as aforesaid shall purchase or otherwise become entitled to the whole or to any part or share of or any interest in such ship or vessel, and the same shall be within the limits of any port of the territories of the East India Company, then and in such case the certificate of registry shall, within seven days after such purchase or transfer of property in such ship or vessel, be delivered up to the registering officer at such port, and if such ship or vessel shall be in any place not within the territories of the East India Company when such purchase or transfer of property shall take place, then the certificate shall be delivered up within fourteen days after the arrival of such ship or vessel, or of the master thereof in any port of the territories of the East India Company to the registering officer at such port in default whereof the master or any of the owners shall be liable on conviction before any justice of the peace to a penalty not exceeding five thousand rupees, recoverable in manner provided by Act No. II of 1839.[1]—[Ship Registry—Act X of 1841, s. 15.]

Certificate of registry.

53. If any registered ship is either actually or constructively lost, taken by the enemy, burnt, or broken up, or if by reason of a transfer to any persons not qualified to be owners of British ships, or of any other matter or thing, any such ship as aforesaid ceases to be a British ship, every person who at the time of the occurrence of any of the aforesaid events owns such ship or any share therein shall immediately upon obtaining knowledge of any such occurrence, if no notice thereof has already been given to the registrar at the port of registry of such ship, give such notice to him, and he shall make an entry thereof in his register book; and, except in cases where the certificate of registry is lost or destroyed, the master of every ship so circumstanced as aforesaid shall immediately, if such event occurs in port, but if the same occurs elsewhere, then within ten days after his arrival in port, deliver the certificate of registry of such ship to the registrar, or, if there be no registrar, to the British Consular officer at such port, and such registrar, if he is not himself the

Certificate of ship lost or ceasing to be British to be delivered up.

[1] Repealed by Act XVII of 1862. Act II of 1839, section 1, enacted that "in all cases of fines by which offenders are or may be punishable by any magistrate, according to the provisions of any Act heretofore passed or which shall hereafter be passed by the Governor General of India in Council, it shall be lawful, in case of non-payment, if no other means for enforcing the payment are or shall be provided by such Act or otherwise, for the magistrates by warrant under his hand, to levy the amount of such fine by distress and sale of any goods and chattels of the offender which may be found within the jurisdiction of such magistrate, and if no such property shall be found within such jurisdiction, then it shall be lawful for every such magistrate by warrant under his hand, to commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of such magistrate, for any term not exceeding two calendar months, where the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four calendar months, where the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid upon payment of the amount."

Certificate of registry.

registrar of her port of registry, or such British Consular officer, shall forthwith forward the certificate so delivered to him to the registrar of the port of registry of the ship; and every owner and master who without reasonable cause makes default in obeying the provisions of this section shall for each offence incur a penalty not exceeding one hundred pounds.

Restrictions on re-registration of abandoned ships.

53*a*. Where a ship has ceased to be registered as a British ship by reason of having been wrecked or abandoned, or for any reason other than capture by the enemy or transfer to a person not qualified to own a British ship, such ship shall not be re-registered until she has, at the expense of the applicant for registration, been surveyed by one of the surveyors appointed by the Board of Trade and certified by him to be seaworthy.—[Merchant Shipping Act, 1873, 36 and 37 Vic., c. 85, s. 6.]

Registration de novo on alteration.

53*b*. If any ship or vessel, after she shall have been registered pursuant to the directions of this Act, shall in any manner whatever be altered so as not to correspond with all the particulars contained in the certificate of her registry, or if any alteration shall take place in the ownership of any ship or vessel, or of any share or shares thereof, in such cases such ship or vessel shall be registered *de novo* in manner hereinbefore required as soon as she returns to the port to which she belongs, or to any other port within the territories of the East India Company, on failure whereof such ship or vessel shall be deemed to be a ship or vessel not duly registered, and any person making use of a certificate for the purposes of any ship or vessel which has been granted in respect of the same, after the same ought to have been registered *de novo*, shall be liable on conviction before any justice to a penalty not exceeding five thousand rupees, recoverable as aforesaid.—[Shiping Registry—Act X of 1841, s. 21.]

Provisional certificate for ship becoming vested in British owners at foreign ports.

54. If any ship becomes the property of persons qualified to be owners of British ships at any foreign port, the British Consular officer resident at such port may grant the master of such ship, upon his application, a provisional certificate, stating—

The name of the ship;

The time and place of her purchase, and the names of her purchasers;

The name of her master;

The best particulars as to her tonnage, build, and description that he is able to obtain;

And he shall forward a copy of such certificate, at the first convenient opportunity, to the *Commissioners of Customs in London* [Registrar General of Seamen[1]]. The certificate so granted shall possess the same force as a certificate of registry until the expiration of six months, or until such earlier time as the ship arrives at some port where there is a British registrar; but upon the expiration of such period, or upon arrival at such port, shall be void to all intents.

[1] Merchant Shipping Act, 1872, 35 and 36 Vic., c. 73, s. 6.

Certificate of Registry.

Fees.

54*a*. The fees demandable in respect of the granting any certificate or pass under this Act shall be fixed from time to time according to the directions of the Governor General in Council, but so that the same shall not exceed the amount of fees now payable for registering or granting passes to ships or vessels at the different presidencies.—[Ship Registry—Act X of 1841, s. 25.]

Fees for certificates of registry of such vessels.

54*b*. The owners of coasting vessels, registered under section 3 of this Act, shall pay for each certificate of registry,

For a vessel not exceeding the burthen of four tons, one rupee;

Exceeding four tons and not exceeding twenty tons, five rupees;

Exceeding twenty tons and not exceeding eighty tons, seven rupees;

Exceeding eighty tons, for each ton two annas;

which fees shall be carried to the credit of the Government of the presidency in which they are levied.—[Navigation Act—Act XI of 1850, s. 4.]

Fees for registration.

54*c*. The owner of every vessel registered as aforesaid shall annually or otherwise pay such fees as the Governor in Council may, from time to time, direct by notification in the Government Gazette.—[Registry of Vessels on the Indus—Bom. Act I of 1863, s. 4.]

As to fees payable by Bombay coasting vessels, see s. 544x.

Transfers and Transmissions.

Transfers and Transmissions.

Transfer of ships, or shares therein.

55. A REGISTERED ship, or any share therein, when disposed of to persons qualified to be owners of British ships, shall be transferred by bill of sale; and such bill of sale shall contain such description of the ship as is contained in the certificate of the surveyor, or such other description as may be sufficient to identify the ship to the satisfaction of the registrar, and shall be according to the form marked E in the schedule hereto, or as near thereto as circumstances permit, and shall be executed by the transferrer in the presence of and be attested by one or more witnesses.

FORM E. (See Section 55.)

BILL OF SALE.

Date of registry.

Name of Ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.

Number of decks .		Build . . .	*Carvel or clincher.*
Number of masts .		Gallery . . .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running bowsprit.*	Head . . .	*Kind of.*
Stern . . .	*Round, square, or other description.*	Framework . .	*Wood or other material.*

Transfers and Transmissions.

BILL OF SALE—*continued.*

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships		

Tonnage.	No. of Tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any, *viz.*—	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total	

(*) *Additional particulars for Steamers.*	Tons.
Deduction for space required for propelling power (say whether $\frac{32}{100}$ ths or $\frac{35}{100}$ ths, or as measured)	
Length of engine-room (if measured)	Feet. Tenths.
Engines	No. of engines.
Combined power (estimated horse-power)	No. of horses-power.
Register tonnage, after making deduction for space for propelling power in steamers.(*)	

(*) Omit this part if the ship has no steam power.

Alter as necessary, if there be more than one owner.

I, *A. B.*, of , in the county of , being owner of share in the ship above particularly described, in consideration of £ paid to me by *C. D.*, of , in the county of , hereby transfer to the said *C. D.* the said shares.

† Omit, if no incumbrances, the words in italics.

Further, I, *A. B.*, for myself and my heirs, covenant with the said *C. D.* and his assigns that I have power to transfer in manner aforesaid the said shares, and that the same are free from incumbrances† *save as appears by the registry of the said ship.*

In witness whereof I have hereunto subscribed my name and affixed my seal, this day of , 18 .

(L.S.) (Signed)

Executed by the above-named in the presence of

[*insert description and place of residence.*]

Instruments chargeable with duty.

55*a*. Subject to the exemption contained in the second schedule, the following instruments shall be chargeable with duty of the amount indicated in the first schedule as the proper duty therefor respectively (that is to say)—

(*a*) Every instrument mentioned in the first schedule, and which, not

having previously executed by any person, is executed in British India on or after the 1st day of April 1879. *Transfers and Transmission.*

(*c*) Every instrument (other than a bill of exchange, cheque, or promissory note) mentioned in the first schedule, which not having been previously executed by any person, is executed out of British India on or after that day, relates to any property situate, or to any matter or thing done or to be done in British India and is received in British India.—[Stamp Act I of 1879, s. 5.]

55*b*. The schedules and everything therein contained shall be read and construed as part of this Act. *Duty on transfers.*

Schedule I	(*a*) Of shares in a Company or Association	One-quarter of the duty payable on a conveyance (No. 21).
60. TRANSFER	(*b*) Of any interest secured by a Bond, Lease, Mortgage-deed or Policy of Insurance—[1]	
See *Exemptions, Schedule II* (*No. 17*).	1. If the duty on such Bond, Lease, Mortgage-deed or Policy does not exceed five rupees	The duty with which such Bond, Lease, Mortgage-deed or Policy of Insurance is chargeable.
	2. In any other case	Five rupees.
	(*c*) Of any property under the Administrator General's Act, 1874, section 34	Ten rupees.
	(*d*) Of any trust-property from one trustee to another trustee without consideration	Five rupees.

[Stamp Act, 1879, Schedule I; Art. 60, Act I of 1879.]

55*c*. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne— *Duties by whom payable.*

(*a*) in the case of any instrument described in numbers 2, 11, 13, 14, 15, 24, 28, 29, 30, 44, 53, 54, 55, 57, and 60 (*a*) and (*b*) of the first schedule—by the person drawing, making, or executing such instrument;

(*b*) in the case of a policy of insurance—by the insured:

[1] Transfers by endorsements on Policies of Insurance are exempt from duty under Art. 17, Schedule II of the Stamp Act.

Sections 55*a* to 55*d*, as far as they relate to transfers of shares in ships, apply to such instruments as are not in the form prescribed by the sections in Part II belonging to the Merchant Shipping Act, 1854, and to transfers, &c., of shares of ships which are not British ships; all instruments in the form prescribed by the Act of 1854 being exempted by s. 9.

Transfer and Transmission.

(*e*) in the case of a conveyance—by the grantee: in the case of a lease or agreement to lease—by the lessee or intended lessee;

(*f*) in the case of a counterpart of a lease—by the lessor:

(*c*) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the property comprised therein, or when the partition is made in execution of an order passed by a revenue-authority, in such proportion as such authority directs;

(*f*) in the case of an instrument of exchange—by the parties in equal shares; and

Requirements as to duty.

(*g*) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates.—[Stamp Act, Act I of 1879, s. 29.]

55*d*. The following instruments may be stamped with adhesive stamps, namely— (*a*) (*b*) (*c*) (*d*)

(*e*) transfers by endorsement of shares of public companies and associations.—[Stamp Act I of 1879, s. 10.]

Shares in ships under the Trustee Act, 1850.

55*e*. Shares in ships registered under the Merchant Shipping Act, 1854, shall be deemed to be included in the word "stock" as defined by the Trustee Act, 1850, and the provisions of such last mentioned Act shall be applicable to such shares accordingly.—[Merchant Shipping Act Amendment Act, 1855, 18 and 19 Vic., c. 91, s. 10.]

Forms of instruments.

55*f*. In any case in which any bill of sale, mortgage, or other instrument for the disposal or transfer of any ship or any share or shares therein or of any interest therein is made in any form or contains any particulars other than the form and particulars prescribed and approved for the purpose by or in pursuance of the Merchant Shipping Act, 1854, no registrar shall be required to record the same without the express direction of the Commissioner of Her Majesty's Customs.—[Merchant Shipping Act Amendment Act, 1855, 18 and 19 Vic., c. 91, s. 11.]

Declaration to be made by transferee.

56. No individual shall be entitled to be registered as transferee of a ship, or any share therein, until he has made a declaration in the form marked F in the schedule hereto, stating his qualification to be registered as owner of a share in a British ship, and containing a denial similar to the denial herein-before required to be contained in a declaration of ownership by an original owner; and no body corporate shall be entitled to be registered as transferee of a ship, or any share therein, until the Secretary or other duly appointed public officer of such body corporate has made a declaration in the form marked G in the schedule hereto, stating the name of such body corporate, and such circumstances of its constitution and business as may prove it to be qualified to own a British ship, and containing a denial similar to the denial herein-before required to be contained in a declaration of ownership made on behalf of a body corporate: In the case of an individual the above declaration shall be made, if he reside within five miles of the custom-house of the port of registry, in the presence of the registrar, but if beyond that distance, in the

presence of any registrar, or of any justice of the peace; in the case of a body corporate the declaration shall be made in the presence of the registrar of the port of registry.

Transfer and Transmission.

FORM F. (See Section 56.)

DECLARATION OF OWNERSHIP BY INDIVIDUAL TRANSFERREE.

Date of registry.

No. _____

Name of Ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.

Number of decks Number of masts Rigging Stern "	*Nature of, and whether standing or swinging bowsprit.* *Round, square, or other description.*	Build Gallery Head Framework	*Carvel or clincher.* *Description of.* *Kind of.* *Wood or other material.*

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships		

Tonnage.	No. of Tons.
Tonnage under tonnage deck	
Closed in spaces above the tonnage deck, if any, *viz.*—	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total	

(*) *Additional particulars for Steamers.*	Tons.	Feet.	Tenths.	No. of cubic feet.	No. of horse-power.
Deduction for space required for propelling power (say whether $\frac{35}{100}$ ths or $\frac{32}{100}$ ths, or as measured)					
Length of engine room (if measured)					
Engines					
Combined power (estimated horse-power)					
Register tonnage, after making deduction for space for propelling power in steamers (*)					

(*) Omit this part if the ship is no steam power.

Transfers and Transmissions.

I, the undersigned *A. B.*, of , in the county of , declare as follows:—

(1) I am a natural-born subject of Her Majesty, born at [*naming place of birth*],

and have never taken the oath of allegiance to any foreign state. } *or* { and have since I took the oath of allegiance to a foreign state [*naming state*], and on the day of , taken the oath of allegiance to Her Majesty, and am resident* at [*naming place*], being a place within Her Majesty's dominions.

or

I am

a denizen by letters of denization dated the day of , } *or* { naturalized by Act of Parliament of the United Kingdom [*cite the year in which the Act was passed, its chapter and title*], } *or* { naturalized by an ordinance of the proper legislative authority of [*naming British possession*], [*cite the year in which the ordinance was passed, its chapter and title*],

and am resident at [*naming place*], being a place within Her Majesty's dominions.

And I have

since I so became a denizen, } *or* { since the passing of the said Act or ordinance,

and on the day of , taken the oath of allegiance to Her Majesty.

(2) To the best of my knowledge and belief no person or body of persons other than such persons or bodies of persons as are by the Merchant Shipping Act, 1894, qualified to be owners of British ships, is entitled as owner to any interest whatever, either legal or beneficial, in the said ship.

And I make this solemn declaration conscientiously believing the same to be true.

(Signed) _____

Dated at ,

the day of , 18 .

Made and subscribed by the above-named *A. B.* in the presence of me.

(Signed) _____ } *Name of registrar or justice of the peace acting in and for* .

* *If the declarant is a natural-born subject who has taken the oath of allegiance to a foreign state, or a denizen or a naturalized subject, and is resident in a country outside the Her Majesty's dominions, he must declare, in addition, that he "is a member of "some British "partnership "partner in some "firm actually "carrying on "business in the "United King-"dom, or in some "British posses-"sion" [*naming the house, and also the place where it carries on its business*].*

Form G. (See Section 56.)

Declaration of Ownership on behalf of a Body Corporate as Transferree.

No. _____ *Date of registry.*

Name of Ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.

Number of decks .		Build . .	*Carvel or clincher.*
Number of masts .		Gallery . .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running bowsprit.*	Head . .	*Kind of.*
		Framework .	*Wood or other material.*
Stern . . .	*Round, square, or other description.*		

DECLARATION OF OWNERSHIP ON BEHALF OF A BODY CORPORATE AS TRANSFEREE—*continued.*

Transfer and Transmission.

	Feet.	Tenths.
Measurements.		
Length from the forepart of stem under the bowsprit to the afteside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships		
	No. of Tons.	
Tonnage.		
Tonnage under tonnage deck		
Closed-in spaces above tonnage deck, if any, *viz.*—		
Space on spaces between decks		
Poop		
Roundhouse		
Other inclosed spaces, if any, naming them*		
Total		
	Tons.	
(*) *Additional particulars for Steamers.*		
Deduction for space required for propelling power (say whether $\frac{37}{100}$ths or $\frac{35}{100}$ths, or as measured)		
	Feet.	Tenths.
Length of engine-room (if measured)		
	No. of engines.	
Engines		
	No. of horses-power.	
Combined power (estimated horse-power)		
Register tonnage, after making deduction for space for propelling power in steamers (*)		

(*) *Omit this part if she has no steam power.*

I, the undersigned *A. B.*, of , in the county of [*Secretary*] or [*duly appointed Public Officer*] of the company, declare as follows:—

(1) The said company was incorporated by or by virtue of

an Act of Parliament of the United Kingdom [*cite the year in which the Act was passed, its chapter and title*]. *or* a charter granted by Her Majesty, and dated the day of *or* an Act or ordinance of the legislature of [*cite year in which the Act or ordinance was passed, its chapter and title*]. *or* the Act VII & VIII Vict., c. 110, from the day of being the date of the certificate of complete registration.

(2) The said company is subject to the laws of the United Kingdom, *or* of the British possession of ,

and has its principal place of business at

(3) The said company is entitled to be registered as transferree of shares in the said ship.

And I make this solemn declaration conscientiously believing the same to be true.

(Signed) _____

Dated at _____,

the day of , 18

Made and subscribed by the above-named *A. B.*

in the presence of me,

(Signed) _____ [*Name of Registrar.*]

Transfer and Transmission.

Registration of transfer.

57. Every bill of sale for the transfer of any registered ship, or of any share therein, when duly executed, shall be produced to the registrar of the port at which the ship is registered, together with the declaration hereinbefore required to be made by a transferree; and the registrar shall thereupon enter in the register book the name of the transferree as owner of the ship or share comprised in such bill of sale, and shall indorse on the bill of sale the fact of such entry having been made, with the date and hour thereof; and all bills of sale of any ship or shares in a ship shall be entered in the register book in the order of their production to the registrar.

Transmission of shares by death, bankruptcy, or marriage.

58. If the property in any ship, or in any share therein, becomes transmitted in consequence of the death or bankruptcy or insolvency of any registered owner, or in consequence of the marriage of any female registered owner, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration of the person to whom such property has been transmitted, made in the form marked H in the schedule hereto, and containing the several statements hereinbefore required to be contained in the declaration of a transferree, or as near thereto as circumstances permit, and, in addition, a statement describing the manner in which and the party to whom such property has been transmitted; and such declaration shall be made and subscribed, if the declarant resides at or within five miles of the Custom-house of the port of registry, in the presence of the registrar, but if beyond that distance, in the presence of any registrar, or of any justice of the peace.

Form H. (See Section 58.)

Declaration by Owner taking by Transmission.

No. _____ *Date of registry.*

Name of Ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.

Number of decks		Built	*Carvel or clincher.*
Number of masts		Gallery	*Description of.*
Rigging	*Nature of, and whether standing or running bowsprit.*	Head	*Kind of.*
		Framework	*Wood or other material.*
Stern	*Round, square, or other description.*		

DECLARATION BY OWNER TAKING BY TRANSMISSION—*continued.*

Transfers and Transmissions.

	Feet.	Tenths.
Measurements.		
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships		

	No. of Tons.
Tonnage.	
Tonnage under tonnage deck	
Closed in spaces above the tonnage deck, if any, *viz.*—	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total	

	Tons.	
(*) ***Additional particulars for Steamers.***		
Deduction for space required for propelling power (say whether $\frac{35}{100}$ths or $\frac{32}{100}$ths, or as measured)		
	Feet.	Tenths.
Length of engine-room (if measured)		
	No. of engines.	
Engines		
	No. of horses-power.	
Combined power (estimated horse-power)		
Register tonnage, after making deduction for space for propelling power in steamers.(*)		

(*) Omit this part if ship has no steam power.

I, † the undersigned *A B.*, of , in the county of , declare as follows:—

(1) I am a natural-born subject of Her Majesty, born at [*naming place of birth*],

and have never taken the oath of allegiance to any foreign state. } *or* { and have since I took the oath of allegiance to a foreign state [*naming state*], and on the day of , taken the oath of allegiance to Her Majesty, and am resident ‡ at [*naming place*], being a place within Her Majesty's dominions.

or

I am

a denizen by letters of denization dated the day of , } *or* { naturalized by Act of Parliament of the United Kingdom [*cite the year in which the Act was passed, its chapter and title*], } *or* { naturalized by an ordinance of the proper legislative authority of [*naming British possession.*] [*cite the year in which the ordinance was passed, its chapter and title*],

† After acquaintanceship of more than one person, makes the declaration.

‡ If the declarant is a natural-born subject who has taken the oath of allegiance to a foreign state, and is denizen or a naturalized subject, and is resident in a country not within Her Majesty's dominions, he must declare, in addition, that he is a member of some British factory, partnership or company, or holds actually or merely on business in the United Kingdom.

Transferee and Transmission.

and am resident at [*ordinary place*], being a place within Her Majesty's dominions.

And I have

Show or state in what manner, and when, and at what place, the person is entitled to be registered.

since I so became a denizen, } *or* { since the passing of the said Act or ordinance,

and on the day of , taken the oath of allegiance to Her Majesty.

(2) I declare that the person appearing by the register book to be the owner of shares in the ship above described* [*died at , in the county of , having first duly made his will, dated the day of ; whereby he appointed me executor, and I proved his said will on the day of in the court of*] *or* [*died at , in the county of , on the day of , intestate, and that letters of administration of his estate and effects were on the day of duly granted to me by the Court of*].

** Alter according to circumstances.*

or

We declare that *C. D.*, the person appearing on the register book to be the owner of shares in the ship above described, was on the day of * [*duly adjudged a bankrupt*] *or* [*declared insolvent*], and that we were on the day of appointed assignees of the said *C. D.*, and we are by law entitled to be registered as owners of the said shares of the said ship in place of the said *C. D.*

or

I declare that on the day of I intermarried with and am now the husband of *C. D.*, the person appearing on the register book to be the owner of shares in the said ship, and I declare that on such marriage the interest of the said *C. D.* became by law vested in me, and that I am entitled to be registered as owner of the said shares in place of the said *C. D.*

(3) To the best of my knowledge and belief no person or body of persons, other than such persons or bodies of persons as are by the Merchant Shipping Act, 1854, qualified to be owners of British ships, is entitled as owner to any interest whatever, either legal or beneficial, in the said ship.

And I make this solemn declaration conscientiously believing the same to be true.

(Signed) _____

Dated at

the day of 18

Made and subscribed by the above-named *A. B.*
in the presence of me,

(Signed) _____ { *Name of registrar or justice of the peace*
acting in and for

Proof of transmission by bankruptcy, marriage, will, or on intestacy.

59. If such transmission has taken place by virtue of the bankruptcy or insolvency of any registered owner, the said declaration shall be accompanied by such evidence as may for the time being be receivable in courts of justice as proof of the title of parties claiming under any bankruptcy or insolvency; and if such transmission has taken place by virtue of the marriage of a female owner, the said declaration shall be accompanied by a copy of the register of such marriage or other legal evidence of the celebration thereof, and shall declare the identity of the said female owner; and if such transmission has taken place by virtue of any testamentary instrument, or by intestacy, then in England, Wales, and Ireland, the said declaration shall be accompanied by the probate of the will or the letters of administration or an official extract therefrom, and in Scotland or in any British possession by the will or any copy thereof that may be evidence by the laws of Scotland or of such possession, or by letters of administration or any copy thereof, or by

such other document as may by the laws of Scotland or of such possession be receivable in the courts of judicature thereof as proof of the person entitled upon an intestacy.

Transfers and Transmission.

60. The registrar, upon the receipt of such declaration so accompanied as aforesaid, shall enter the name of the person or persons entitled under such transmission in the register book as owner or owners of the ship or share therein in respect of which such transmission has taken place; and such persons, if more than one, shall, however numerous, be considered as one person only as regards the rule hereinbefore contained relating to the number of persons entitled to be registered as owners.

Registration of transmitted share.

61. Of the documents hereby required to be produced to the registrar he shall retain in his possession the following; that is to say, the surveyor's certificate, the builder's certificate, the copy of the condemnation, and all declarations of ownership.

Registrar to retain certain evidence.

62. Whenever any property in a ship or share in a ship becomes vested by transmission on the death of any owner, or on the marriage of any female owner, in any person not qualified to be the owner of British ships, it shall be lawful, if such ship is registered in England or Ireland for the Court of Chancery; if in Scotland for the Court of Session, or if in any British possession for any court possessing the principal civil jurisdiction within such possession, upon an application made by or on behalf of such unqualified person, to order a sale to be made of the property so transmitted, and to direct the proceeds of such sale, after deducting the expenses thereof, to be paid to the person entitled under such transmission, or otherwise as the court may direct; and it shall be in the discretion of any such court as aforesaid to make or refuse any such order for sale, and to annex thereto any terms or conditions, and to require any evidence in support of such application it may think fit, and generally to act in the premises in such manner as the justice of the case requires.

Unqualified owner entitled by transmission may apply to court for sale of ship.

63. Every order for a sale made by such court as aforesaid shall contain a declaration vesting the right to transfer the ship or share so to be sold in some person or persons named by the court, and such nominee or nominees shall thereupon be entitled to transfer such ship or share in the same manner, and to the same extent as if he or they were the registered owner or owners of the same; and every registrar shall obey the requisition of such nominee or nominees as aforesaid in respect of any transfer to the same extent as he would be compellable to obey the requisition of any registered owner or owners of such ship or share.

Order to be made by court.

64. Every such application as aforesaid for sale shall be made within four weeks after the occurrence of the event on which such transmission has taken place, or within such further time as such court as aforesaid may allow, such time not in any case to exceed the space of one year from the date of such occurrence as aforesaid; and in the event of no such application being made

Limit of time for application.

Transfers and Transmissions.

within such period as aforesaid, or of such court refusing to accede thereto, the ship or share so transmitted shall thereupon be forfeited in manner hereinafter directed with respect to interests acquired by unqualified owners in ships using a British flag and assuming the British character.

Power of courts to prohibit transfers.

65. It shall be lawful in England or Ireland for the Court of Chancery, in Scotland for the Court of Session, in any British possession for any court possessing the principal civil jurisdiction within such possession, without prejudice to the exercise of any other power, such court may possess, upon the summary application of any interested person made either by petition or otherwise, and either *ex-parte* or upon service of notice on any other person, as the court may direct, to issue an order prohibiting for a time to be named in such order any dealing with such ship or share; and it shall be in the discretion of such court to make or refuse any such order, and to annex thereto any terms or conditions it may think fit, and to discharge such order when granted, with or without costs, and generally to act in the premises in such manner as the justice of the case requires; and every registrar, without being made a party to the proceedings, upon being served with such order, or an official copy thereof, shall obey the same.

Mortgages.

Mortgages.

Mortgage of ships and shares therein.

66. A REGISTERED ship, or any share therein, may be made a security for a loan or other valuable consideration; and the instrument creating such security, hereinafter termed a "mortgage," shall be in the form marked I in the schedule hereto, or as near thereto as circumstances permit; and on the production of such instrument, the registrar of the port at which the ship is registered shall record the same in the register book.

FORM I. (See Section 66.)

FORM OF MORTGAGE.

No. _____ *Date of registry.*

Name of ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.

Number of decks .		Build . . .	*Carvel or clincher.*
Number of masts .		Gallery . . .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running bowsprit.*	Head . . .	*Kind of.*
Stern . . .	*Round, square, or other description.*	Framework . . .	*Wood or other material.*

FORM OF MORTGAGE—*continued.*

Mortgages.

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships		

Tonnage.	No. of Tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any, *viz.*—	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total	

(*) *Additional particulars for Steamers.*		
Deduction for space required for propelling power (say whether $\frac{37}{100}$ths or $\frac{34}{100}$ths, or as measured)	Tons.	
Length of engine-room (if measured)	Feet.	Tenths.
Engines	No. of engines.	
Combined power (estimated horse-power)	No. of horses-power.	
Register tonnage, after making deduction for space for propelling power in steamers.(*)		

(*) *Omit this part if ship has no steam power.*

I, the undersigned, *A. B.*, of , in the county of , in consideration of £ this day lent to me by *C.D.*, of , in the county of , do hereby for myself and my heirs covenant with the said *C.D.*, firstly, that I, or my heirs, executors, or administrators, will pay to the said *C.D.* the said sum of £ , together with interest thereon at the rate of £ by the £100 in the year, on the day of next; and, secondly, that if the said principal sum is not paid on the said day, I, or my heirs, executors, or administrators, will, during such time as the same or any part thereof remain unpaid, pay to the said *C.D.* interest on the whole or such part thereof as may for the time being remain unpaid at the rate of £ by the £100 in the year, by equal half-yearly payments, on the day of , and day of , in every year; and for better securing to the said *C.D.* the repayment in manner aforesaid of the said principal sum and interest, I hereby mortgage to the said *C.D.* shares of which I am the owner in the ship above particularly described.

After covenant as may be necessary, so as to secure a general balance of accounts, or otherwise as the case may require.

Lastly, I, *A. B.*, for myself and my heirs, covenant with the said *C.D.*, and his assigns, that I have power to mortgage in manner aforesaid the above-mentioned shares, and that the same are free from incumbrances* *save as appears by the registry of the said ship.*

* *Omit, if no incumbrances, the words in italics.*

In witness whereof I have hereto subscribed my name and affixed my seal, this day of

(L.S.) (Signed)

Executed by the above-named *A. B.*

in the presence of *X. Y.*

Mortgages.

Mortgages to be registered in order of time of production.

67. Every such mortgage shall be recorded by the registrar in the order of time in which the same is produced to him for that purpose; and the registrar shall, by memorandum under his hand, notify on the instrument of mortgage that the same has been recorded by him, stating the date and hour of such record.

Entry of discharge of mortgage.

68. Whenever any registered mortgage has been discharged, the registrar shall, on the production of the mortgage deed, with a receipt for the mortgage money indorsed thereon, duly signed and attested, make an entry in the register book to the effect that such mortgage has been discharged, and upon such entry being made the estate, if any, which passed to the mortgagee shall vest in the same person or persons in whom the same would, having regard to intervening acts and circumstances, if any, have vested if no such mortgage had ever been made.

Priority of mortgages.

69. If there is more than one mortgage registered of the same ship or share therein, the mortgagees shall, notwithstanding any express, implied, or constructive notice, be entitled in priority one over the other according to the date at which each instrument is recorded in the register books, and not according to the date of each instrument itself.

Mortgagee not to be deemed owner.

70. A mortgagee shall not by reason of his mortgage be deemed to be the owner of a ship, or any share therein, nor shall the mortgagor be deemed to have ceased to be owner of such mortgaged ship or share, except in so far as may be necessary for making such ship or share available as a security for the mortgage debt.

Mortgagee to have power of sale.

71. Every registered mortgagee shall have power absolutely to dispose of the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money; but if there are more persons than one registered as mortgagees of the same ship or share, no subsequent mortgagee shall, except under the order of some court capable of taking cognizance of such matters, sell such ship or share without the concurrence of every prior mortgagee.

Rights of mortgagee not affected by any act of bankruptcy of mortgagor.

72. No registered mortgage of any ship, or of any share therein, shall be affected by any act of bankruptcy committed by the mortgagor after the date of the record of such mortgage, notwithstanding such mortgagor at the time of his becoming bankrupt may have in his possession and disposition and be reputed owner of such ship or share thereof; and such mortgage shall be preferred to any right, claim, or interest in such ship or any share thereof, which may belong to the assignees of such bankrupt.

Property in the order and disposition of insolvent to be deemed his property.

72*a*. And be it enacted that if any such insolvent shall, at the time of filing his petition, or at the time of filing the petition on which an adjudication of insolvency shall be made, by the consent and permission of the true owner thereof, have in his possession, order, or disposition any goods or chattels whereof such insolvent is reputed owner, or whereof he has taken upon him the sale, alteration, or disposition, as owner, the same shall be deemed to be

Mortgages.

the property of such insolvent, so as to become vested in the official assignee of the court by the order made in pursuance of this Act; provided that no assignment or transfer of any ship or vessel, or any share thereof, made as a security for any debt, either by way of mortgage or assignment, duly registered according to the provisions of any Act or Acts of Parliament now in force or hereafter to be passed for the registering of British vessels, shall be invalidated or affected by reason of such possession, order, or disposition of the same as aforesaid.—[Insolvent Debtors Act[1] 11 and 12 Vic., c. 21, s. 23.]

Mortgages of ships or vessels, or shares thereof, duly registered, not to be invalidated or affected.

72*b*. Subject to the provisions contained in sections 5 to 25 (inclusive), every suit instituted, appeal presented, and application made after the period of limitation prescribed therefor by the second schedule hereto annexed, shall be dismissed, although limitation has not been set up as a defence:—

Dismissal of suits instituted after period of limitation.

Description of suit.	Schedule II, period of limitation.	Time from which period begins to run.
147. By a mortgagee for foreclosure or sale.	Sixty years.	When the money secured by the mortgage becomes due.

[Limitation Act 1877—Act XV of 1877, *s.* 4 and sch. II., Art. 147.]

73. A REGISTERED mortgage of any ship or share in a ship may be transferred to any person; and the instrument creating such transfer shall be in the form marked K in the schedule hereto; and on the production of such instrument the registrar shall enter in the register book the name of the transferee as mortgagee of the ship or shares therein mentioned, and shall by memorandum under his hand record on the instrument of transfer that the same has been recorded by him, stating the date and hour of such record.

Transfer of mortgages.

FORM K. (See Section 73.)

TRANSFER OF MORTGAGE TO BE ENDORSED ON ORIGINAL MORTGAGE.

I, the within mentioned *C. D.*, in consideration of £ this day paid to me by *X. Y.*, of in the country of , hereby transfer to him the benefit of the within written security. In witness whereof I have hereunto subscribed my name and affixed my seal this the day of

(L.S.) (Signed) _____

Executed by the above-named *C. D.*
in the presence of *E. F.*

74. If the interest of any mortgagee in any ship, or in any share therein, becomes transmitted in consequence of death, bankruptcy, or insolvency, or in

Transmission of interest of mortgagee by death, bankruptcy, or marriage.

[1] This Act applies only to the Presidency Towns.

Mortgagee. consequence of the marriage of any female mortgagee, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration of the person to whom such interest has been transmitted, made in the form marked L in the schedule hereto, and containing a statement describing the manner in which and the party to whom such property has been transmitted; and such declaration shall be made and subscribed, if the declarant resides at or within five miles of the Custom-house of the port of registry, in the presence of the registrar, but if beyond that distance, in the presence of any registrar, or of any justice of the peace, and shall be accompanied by such evidence as is hereinbefore required to authenticate a corresponding transmission of property from one registered owner to another.

FORM L. (See Section 74.)

DECLARATION BY MORTGAGEE TAKING BY TRANSMISSION.

No. _____ *Date of registry.*

Name of Ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.

Number of decks		Build	*Carvel or clincher.*
Number of masts		Gallery	*Description of.*
Rigging	*Nature of, and whether standing or running bowsprit.*	Head	*Kind of.*
Stern	*Round, square, or other description.*	Frumework	*Wood, or other material.*

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships		

Tonnage.	No. of Tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any, *viz.*—	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total	

DECLARATION BY MORTGAGEE TAKING BY TRANSMISSION—*contd.*

Mortgagee.

(*) *Additional particulars for Steamers.*	Tons.
Deduction for space required for propelling power (say whether $\frac{53}{100}$ths or $\frac{35}{100}$ths, or as measured)	
	Feet. Tenths.
Length of engine-room (if measured)	
	No. of engines.
Engines	
	No. of horses-power.
Combined power (estimated horse-power)	
Register tonnage, after making deduction for space for propelling power in steamers. (*)	

(*) *Omit this part if she has no steam power.*

I, the undersigned *A. B.*, of in the county of , declare as follows:—

I declare that the person appearing by the register book to be the mortgagee of shares in the ship above described† [*died at , in the county of , having first duly made his will, dated the day of , whereby he appointed me executor, and I proved his said will on the day of , in the Court of*] or [*died at , in the county of , on the day of , intestate, and that letters of administration of his estate and effects were on the day of duly granted to me by the Court of*].

or

We declare that *C. D.*, the person appearing on the register book to be the mortgagee of shares in the ship above described,† [*was on the day of duly adjudged a bankrupt*] or [*was duly declared insolvent*], and that we were on the day of appointed assignees of the said *C. D.*, and we are by law entitled to be registered as mortgagees of the said shares of the said ship in place of the said *C. D.*

or

I declare that on the day of I intermarried with and am now the husband of *C. D.*, the person appearing on the register book to be the mortgagee of shares in the said ship, and I declare that on such marriage the interest of the said *C. D.* became by law vested in me, and that I am entitled to be registered as mortgagee of the said shares in place of the said *C. D.*

† *After recording to circumstances.*

And I make this solemn declaration conscientiously believing the same to be true.

(Signed)——————————

Made and subscribed by the above-named *A. B.* in the presence of me,

(Signed)——————————*Registrar or Justice of the Peace.*

Mortgages.

Entry of transmitted mortgages.

75. The registrar, upon the receipt of such declaration and the production of such evidence as aforesaid, shall enter the name of the person or persons entitled under such transmission in the register book as mortgagee or mortgagees of the ship or share in respect of which such transmission has taken place.

Certificates of Mortgage and Sale.

Certificates of Mortgage and Sale.

Powers of mortgage and sale may be conferred by certificate.

76. Any registered owner, if desirous of disposing by way of mortgage or sale of the ship or share in respect of which he is registered at any place out of the country or possession in which the port of registry of such ship is situate, may apply to the registrar, who shall thereupon enable him to do so by granting such certificates as are hereinafter mentioned, to be called respectively certificates of mortgage or certificates of sale, according as they purport to give a power to mortgage or a power to sell.

Requisites for certificates of mortgage and sale.

77. Previously to any certificate of mortgage or sale being granted the applicant shall state to the registrar, to be by him entered in the register book, the following particulars (that is to say)—

(1) The names of the persons by whom the power mentioned in such certificate is to be exercised, and in the case of a mortgage the maximum amount of charge to be created, if it is intended to fix any such maximum, and in the case of a sale the minimum price at which a sale is to be made, if it is intended to fix any such minimum:

(2) The specific place or places where such power is to be exercised, or if no place be specified, then that it may be exercised anywhere, subject to the provisions hereinafter contained:

(3) The limit of time within which such power may be exercised.

Restrictions on certificates of mortgage and sale.

78. No certificate of mortgage or sale shall be granted so as to authorise any mortgage or sale to be made—

at any place within the United Kingdom, if the port of registry of the ship be situate in the United Kingdom; or at any place within the same British possession, if the port of registry is situate within a British possession; or

by any person not named in the certificate.

Forms of certificates of mortgage and sale.

79. Certificates of mortgage and sale shall be in the forms marked respectively M and N in the schedule hereto, and shall contain a statement of the several particulars hereinbefore directed to be entered in the register book, and in addition thereto an enumeration of any registered mortgages or certificates of mortgage or sale affecting the ships or shares in respect of which such certificates are given.

Certificate of Mortgage and Sale.

FORM M. (See Section 79.)

CERTIFICATE OF MORTGAGE.

Date of registry.

No. _____

Name of Ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.

Number of decks Number of masts Rigging Stern	*Nature of, and whether standing or running bowsprit.* *Round, square, or other description.*	Build Gallery Head Framework	*Carvel or clincher.* *Description of.* *Kind of.* *Wood or other material.*

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships		

Tonnage.	No. of Tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any, *viz.*—	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total	

(*) *Additional particulars for Steamers.*	Tons.	
Deduction for space required for propelling power (say whether $\frac{33}{100}$ths or $\frac{35}{100}$ths, or as measured)		
Length of engine-room (if measured)	Feet.	Tenths.
Engines	No. of engines.	
Combined power (estimated horse-power)	No. of horses-power.	
Register tonnage, after making deduction for space for propelling power in steamers. (*)		

(*) *Omit this part if she has no steam power.*

Certificates of Mortgage and Sale.

CERTIFICATE OF MORTGAGE—*continued.*

ACCOUNT OF TITLE OF SUBSCRIBING OWNERS.

Names of the several Subscribing Owners.	Number of sixty-fourth shares held by each of the Subscribing Owners.	Account of mortgages or certificates of mortgage or sale granted in respect of shares of Subscribing Owners.
(*Name and description of Owner.*)		

After accounting, if there is only one appointor or one attorney.

(1) We the several above-mentioned persons, whose names are hereunto subscribed, being owners of the above ship in the proportion set opposite our respective names in the above account of title (*but subject to the several mortgages above mentioned*), hereby appoint *A. B.*, of , and *C. D.*, of , and each of them, our attornies and attorney, jointly or severally in our names and on our behalf to mortgage our shares in the above ship, and to execute and do all such deeds, matters, and things as may be necessary for carrying into effect the power hereby given.

(2) We declare that the amount of money to be raised by mortgage under this power shall not exceed £ , and that the rate of interest at which the same is raised shall not exceed £ for every £100 by the year.

(3) We declare that the power of mortgaging hereby given may be exercised at

(4) We declare that the above power shall not be exercised after the expiration of months from the date hereof.

In witness whereof we have hereunto subscribed our names and affixed our seals, this day of

(L.S.) *E. F.*, of
(L.S.) *G. H.*, of
&c.

I, *M. N.*, Registrar of , hereby certify, that the above-written particulars relating to the ship , and to the title of the several above-mentioned owners, are correct; and I further certify that the said owners have executed this certificate in manner above appearing.

Signed——————————, Registrar.

N.B.—Mortgages created under this power must be endorsed on the certificate in the following form, or as near thereto as circumstances permit:—

The day of

The within mentioned shares in the ship —————————— *were this day mortgaged to X. Y., of* —————————— *to secure* *£ —————— *and interest.*

Signed —————————— } *Registrar or Consular Officer.*

** If the mortgage is to cover advances, insert "a sum not exceeding £ ," or "general balance of account," as case may be.*

Certificate of Mortgage and Sale.

Form N. (See Section 79.)

Certificate of Sale.

No. _____ Date of registry.

Name of Ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw. *

N. B.—All the owners of the ship must be parties to this document.

Number of decks		Build	Carvel or clincher.
Number of masts		Gallery	Description of.
Riggings	Nature of, and whether standing or running bowsprit.	Head	Kind of.
Stern	Round, square, or other description.	Framework	Wood or other material.

Measurements.	Feet.	Tenths.
Length from the forepart of the stem under the bowsprit to the aftside of head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships		

Tonnage.	No. of Tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any, viz.—	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total	

(*) Additional particulars for Steamers.		
	Tons.	
Deduction for space required for propelling power (say whether $\frac{37}{100}$ths or $\frac{42}{100}$ths, or as measured)		
	Feet.	Tenths.
Length of engine-room (if measured)		
	No. of engines.	
Engines		
	No. of horses-power.	
Combined power (estimated horse-power)		
Register tonnage, after making deduction for space for propelling power in steamers. (*)		

(*) Omit this part if the ship has no steam power.

Certificate of Mortgage and Sale.

CERTIFICATE OF SALE—*continued.*

ACCOUNT OF TITLE TO THE ABOVE-MENTIONED SHIP.

Names of the Owners of the Ship above-mentioned.	Number of sixty-fourth shares held by each Owner.	Account of mortgages or certificates of mortgage or sale granted in respect of Ship.
(Name)		

After recital, if only one appointee or one attorney.

(1) We, the several above-mentioned persons, whose names are hereunto subscribed, being owners of the above ship in the proportions set opposite our respective names in the above-mentioned account of title (*but subject to the several mortgages abovementioned*), hereby appoint *A. B.*, of , and *C. D.*, of and each of them, our attornies and attorney, jointly or severally in our names and on our behalf to sell the above ship, and to execute and do all such deeds, matters, and things as may be necessary for carrying into effect the power hereby given.

(2) We declare that the ship shall not be sold for a less sum than £

(3) We declare that the ship may be sold at

(4) We declare that the above power shall not be exercised after the expiration of month from the date hereof.

In witness whereof we have hereunto subscribed our names and affixed our seals this day of

(L.S.) *E. F.*, of

(L.S.) *G. H.*, of

&c.

I, *M. N.*, Registrar of , hereby certify that the above-written particulars relating to the ship , and to the title of the several above-mentioned owners, are correct; and I further certify that the said owners have executed this certificate in manner above appearing.

Signed , *Registrar.*

Rules as to certificates of mortgage.

80. The following rules shall be observed as to certificates of mortgage (that is to say)—

(1) The power shall be exercised in conformity with directions contained in the certificate:

(2) A record of every mortgage made thereunder shall be indorsed thereon by a registrar or British Consular officer: *Certificate of Mortgage and Sale.*

(3) No mortgage *bonâ fide* made thereunder shall be impeached by reason of the person by whom the power was given dying before the making of such mortgage:

(4) Whenever the certificate contains a specification of the place or places at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, no mortgage *bonâ fide* made to a mortgagee without notice shall be impeached by reason of the bankruptcy or insolvency of the person by whom the power was given:

(5) Every mortgage which is so registered as aforesaid on the certificate shall have priority over all mortgages of the same ship or share created subsequently to the date of the entry of the certificate in the register book; and if there be more mortgages than one so indorsed, the respective mortgagees claiming thereunder shall, notwithstanding any express, implied, or constructive notice, be entitled one before the other according to the date at which a record of each instrument is indorsed on the certificate, and not according to the date of the instrument creating the mortgage:

(6) Subject to the following rules, every mortgagee whose mortgage is registered on the certificate shall have the same rights and powers and be subject to the same liabilities as he would have had and been subject to if his mortgage had been registered in the register book instead of on the certificate:

(7) The discharge of any mortgage so registered on the certificate may be indorsed thereon by any registrar or British Consular officer, upon the production of such evidence as is hereby required to be produced to the registrar on the entry of the discharge of a mortgage in the register book; and upon such indorsement being made the estate, if any, which passed to the mortgagee shall vest in the same person or persons in whom the same would, having regard to intervening acts and circumstances, if any, have vested if no such mortgage had been made:

(8) Upon the delivery of any certificate of mortgage to the registrar by whom it was granted he shall, after recording in the register book in such manner as to preserve its priority any unsatisfied mortgage register thereon, cancel such certificate, and enter the fact of such cancellation in the register book; and every certificate so cancelled shall be void to all intents.

81. The following rules shall be observed as to certificates of sale (that is to say)— *Rules as to certificates of sale.*

(1) No such certificate shall be granted except for the sale of an entire ship:

Certificate of Mortgage and Sale.

(2) The power shall be exercised in conformity with the directions contained in the certificate:

(3) No sale *bonâ fide* made to a purchaser for valuable consideration shall be impeached by reason of the person by whom the power was given dying before the making of such sale:

(4) Whenever the certificate contains a specification of the place or places at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, no sale *bonâ fide* made to a purchaser for valuable consideration without notice shall be impeached by reason of the bankruptcy or insolvency of the person by whom the power was given:

(5) Any transfer made to a person qualified to be the owner of British ships shall be by bill of sale in the form hereinbefore mentioned, or as near thereto as circumstances permit:

(6) If the ship is sold to a party qualified to hold British ships, the ship shall be registered anew; but notice of all mortgages enumerated on the certificate of sale shall be entered in the register book:

(7) Previously to such registry anew there shall be produced to the registrar required to make the same the bill of sale by which the ship is transferred, the certificate of sale, and the certificate of registry of such ship:

(8) Such last-mentioned registrar shall retain the certificates of sale and registry, and after having indorsed on both of such instruments an entry of the fact of a sale having taken place, shall forward the said certificates to the registrar of the port appearing on such certificates to be the former port of registry of the ship, and such last-mentioned registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in such book shall be considered as closed, except as far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein:

(9) On such registry anew the description of the ship contained in her original certificate of registry may be transferred to the new register book, without her being re-surveyed, and the declaration to be made by the purchaser shall be the same as would be required to be made by an ordinary transferree:

(10) If the ship is sold to a party not qualified to be the owner of a British ship, the bill of sale by which the ship is transferred, the certificate of sale, and the certificate of registry, shall be produced to some registrar or Consular officer, who shall retain the certificates of sale and registry, and, having indorsed thereon the fact of such ship having been sold to persons not qualified to be owners of British ships, shall forward such certificates to the registrar of the port appearing on the certificate of registry to be the port of regis-

try of such ship; and such last-mentioned registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in such book shall be considered as closed, except so far as it relates to any unsatisfied mortgages or existing certificates of mortgage entered therein:

Certificate of Mortgage and Sale.

(11) If upon a sale being made to an unqualified person default is made in the production of such certificates as are mentioned in the last rule, such unqualified person shall be considered by British law as having acquired no title to or interest in the ship; and further the party upon whose application such certificate was granted, and the persons exercising the power, shall each incur a penalty not exceeding one hundred pounds:

(12) If no sale is made in conformity with the certificate of sale, such certificate shall be delivered to the registrar by whom the same was granted; and such registrar shall thereupon cancel it, and enter the fact of such cancellation in the register book; and every certificate so cancelled shall be void to all intents.

Power of Commissioners of Customs in case of loss of certificate of mortgage or sale.

82. Upon proof at any time to the satisfaction of the Commissioners of Customs that any certificate of mortgage or sale is lost or so obliterated as to be useless, and that the powers thereby given have never been exercised, or if they have been exercised, then upon proof of the several matters and things that have been done thereunder, it shall be lawful for the registrar, with the sanction of the said Commissioners, as circumstances may require, either to issue a new certificate, or to direct such entries to be made in the register book, or such other matter or thing to be done, as might have been made or done if no such loss or obliteration had taken place.

Revocations of certificates of mortgage and sale.

83. The registered owner for the time being of any ship or share therein in respect of which a certificate of mortgage or sale has been granted, specifying the place or places where the power thereby given is to be exercised, may, by an instrument under his hand made in the form O in the schedule hereto, or as near thereto as circumstances permit, authorise the registrar by whom such certificate was granted to give notice to the registrar or Consular officer, registrars or Consular officers, at such place or places, that such certificate is revoked; and notice shall be given accordingly, and all registrars or Consular officers receiving such notice shall record the same, and shall exhibit the same to all persons who may apply to them for the purpose of effecting or obtaining a mortgage or transfer under the said certificate of mortgage or sale; and after such notice has been so recorded the said certificate shall, so far as concerns any mortgage or sale to be thereafter made at such place, be deemed to be revoked and of no effect; and every registrar or Consular officer recording any such notice shall thereupon state to the registrar by whom the certificate was granted whether any previous exercise of the power to which such certificate refers has taken place.

Certificate of Mortgage and &c.

Form O. (See Section 83.)

Form of Revocation.

No. _____

_____ Date of registry.

Name of Ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.

Number of decks .		Build .	*Carvel or clincher.*
Number of masts .		Gallery .	*Description of.*
Riggings .	*Nature of, and whether standing or running bowsprit.*	Head .	*Kind of.*
		Framework .	*Wood or other material.*
Stern .	*Round, square, or other description.*		

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships		

Tonnage.	No. of Tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any, *viz.*—	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total	

(*) *Additional particulars for Steamers.*	Tons.	
Deduction for space required for propelling power (say whether $\frac{37}{100}$ths or $\frac{35}{100}$ths, or as measured)		
Length of engine-room (if measured)	Feet.	Tenths.
Engines	No. of engines.	
Combined power (estimated horse-power)	No. of horses-power.	
Register tonnage, after making deduction for space for propelling power in steamers.(*)		

(*) Omit this part if she has no steam power.

We , * *owners of* the ship above described, hereby revoke the power of mortgaging (*or* selling) the said ship given *by us* to † by a certificate of mortgage (*or* sale) dated the day of In witness whereof we have hereunto subscribed our names and affixed our seals, this day of

(L.S.) *E. F.*, of
(L.S.) *G. H.*, of
&c.

I, *M. N.*, Registrar of , hereby certify that the said *owners* have executed this power of revocation in manner above appearing.

Signed , *Registrar.*

Certificate of Mortgage and Sale.

* *After according to circumstances the words printed in italics.*

† *Insert names of attorneys.*

Registry anew, and Transfer of Registry.

Registry anew, and Transfer of Registry.

Alteration in ships to be registered.

84. Whenever any registered ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book, then, if such alteration is made at a port where there is a registrar, the registrar of such port, but if made elsewhere, the registrar of the first port having a registrar at which the ship arrives after her alteration, shall, on application made to him, and on the receipt of a certificate from the proper surveyor, specifying the nature of such alteration, either retain the old certificate of registry and grant a new certificate of registry containing a description of the ship as altered, or indorse on the existing certificate a memorandum of such alteration, and subscribe his name to such indorsement; and the registrar to whom such application as aforesaid is made, if he is the registrar of the port of registry of the ship, shall himself enter in his register book the particulars of the alteration so made, and the fact of such new certificate having been granted or indorsement having been made on the existing certificate; but if he is not such last-mentioned registrar, he shall forthwith report such particulars and facts as aforesaid, accompanied by the old certificate of registry in cases where a new one has been granted, to the registrar of the port of registry of the ship, who shall retain such old certificate (if any), and enter such particulars and facts in his register book accordingly.

On alteration registry anew may be required.

85. When the registrar to whom application is made in respect of any such alteration as aforesaid is the registrar of the port of registry, he may, if he thinks fit, instead of registering such alteration, require such ship to be registered anew in manner hereinbefore directed on the first registry of a ship; and if he is not such registrar as lastly hereinbefore mentioned, he may nevertheless require such ship to be registered anew, but he shall in such last-mentioned case grant a provisional certificate or make a provisional indorsement of the alteration made in manner hereinbefore directed in cases where no registry anew is required, taking care to add to such certificate or indorsement a statement that the same is made provisionally, and to insert in his report to the registrar of the port of registry of the ship a like statement.

Grant of provisional certificate in respect of alteration.

86. Every such provisional certificate, or certificate provisionally indorsed, shall within ten days after the first subsequent arrival of the ship at her port

Registry anew, and transfer of Registry.

of discharge in the United Kingdom, if registered in the United Kingdom, or, if registered elsewhere, at her port of discharge in the British possession within which her port of registry is situate, be delivered up to the registrar thereof who shall thereupon cause such ship to be registered anew, in the same manner in all respects as hereinbefore required on the first registry of any ship.

Consequence of omission to register anew.

87. On failure of such registry anew of any ship or registry of alteration of any ship so altered as aforesaid, such ship shall be deemed not duly registered, and shall no longer be recognised as a British ship.

On change of owners, registry anew may be granted, if required.

88. If upon any change of ownership in any ship the owner or owners desire to have such ship registered anew, although such registry anew is not required by this Act, it shall be lawful for the registrar of the port at which such ship is already registered, on the delivery up to him of the existing certificate of registry, and on the other requisites to registry, or such of them as the registrar thinks material, being duly complied with, to make such registry anew, and grant a certificate thereof.

Registry may be transferred from port to port.

89. The registry of any ship may be transferred from one port to another upon the application of all parties appearing on the register to be interested in such ship, whether as owners or mortgagees, such application to be expressed by a declaration in writing, made and subscribed, if the party so required to make and subscribe the same resides at or within five miles of the custom-house of the port from which such ship is to be transferred, in the presence of the registrar of such port, but if beyond that distance, in the presence of any registrar, or of any justice of the peace.

Manner of transfer of registry.

90. Upon such application being made as is hereinbefore mentioned, and upon the delivery to him of the certificate of registry, the registrar of the port at which such ship is already registered shall transmit to the registrar of the port at which such ship is intended to be registered notice of such application having been made to him, together with a true copy of all particulars relating to such ship, and the names of all the parties appearing by his book to be interested as owners or mortgagees in such ship; and such last-mentioned registrar shall upon the receipt of such notice enter all such particulars and names in his book of registry, and grant a fresh certificate of registry, and thenceforth such ship shall be considered as registered at and belonging to such last-mentioned port, and the name of such last-mentioned port shall be substituted on the stern of such ship in lieu of the name of the port previously appearing thereon.

Delivery of certificate upon transfer of registry.

90*a*. Upon the transfer of the registry of a ship from one port to another, the certificate of registry required by the ninetieth section of the Merchant Shipping Act, 1854, to be delivered up for that purpose, may be delivered up to the registrar of either of such ports.—[The Merchant Shipping Act Amendment Act, 1855, 18 and 19 Vic., c. 91, s. 12.]

Transfer of registry not to affect rights of owners.

91. The transfer of the registry of any ship in manner aforesaid shall not in any way affect the rights of the several persons interested either as owners

or mortgagees in such ship, but such rights shall in all respects be maintained and continue in the same manner as if no such transfer had been effected. *Registry anew, and Transfer of Registry.*

Registry, Miscellaneous.

Registry, Miscellaneous.

92. Every person may, upon payment of a fee to be fixed by the *Commissioner of Customs* [Registrar-General of Shipping and Seamen[1]] not exceeding one shilling, have access to the register book for the purpose of inspection, at any reasonable time during the hours of official attendance of the registrar. Inspection of register books.

93. No registrar shall be liable to damages or otherwise for any loss accruing to any person by reason of any act done or default made by him in his character of registrar, unless the same has happened through his neglect or wilful act. Indemnity to registrar.

94. Every registrar in the United Kingdom shall at the expiration of every month, and every other registrar shall without delay, or at such stated time as may be fixed by the *Commissioners of Customs* [Registrar-General of Shipping and Seamen[1]], transmit to the *Custom House in London* [Registrar-General of Shipping and Seamen[1]] a full return in such form as they may direct of all registries, transfers, transmissions, mortgages, and other dealings with ships, which have been registered by or communicated to them in their character of registrars, and the names of the persons who have been concerned in the same, and such other particulars as may be directed by the said Commissioners. Returns to be made by registrars to Commissioners of Customs.

95. All fees authorised to be taken under the second part of this Act shall, if taken in any part of the United Kingdom, be applied in payment of the general expenses of carrying into effect the purposes of such second part, or otherwise as the Treasury may direct, but if taken elsewhere shall be disposed of in such way as the executive Government of the British possession in which they are taken may direct. Application of fees.

95*a*. The sums realised from the fees and fines aforesaid shall be expended in removing obstructions from the channels of the river Indus, and in other ways improving the navigation of that river.—[Registry of Vessels on the Indus—Bom: Act 1 of 1863, s. 7.] Application of fees and fines.

96. The Commissioners of Customs shall cause the several forms required or authorised to be used by the second part of this Act, and contained in the schedule hereto, to be supplied to all registrars within Her Majesty's dominions, for distribution to the several persons requiring to use the same, either free of charge, or at such moderate prices as they may from time to time direct; and the said Commissioners, with the consent of the Board of Trade, may from time to time make such alterations in the forms contained in the schedule hereto as it may deem requisite, but shall before issuing any altered Commissioners of Customs shall provide and, with consent of Board of Trade, may alter forms and issue instructions.

[1] Merchant Shipping Act, 1872, 35 and 36 Vic., c. 73, s. 4. By this Act the title of Registrar-General of Seamen is altered to the Registrar-General of Shipping and Seamen.

Registry, Miscellaneous.

form give such public notice thereof as may be necessary in order to prevent inconvenience; and the said Commissioners may also, with such consent as aforesaid, for the purposes of carrying into effect the provisions contained in the second part of this Act, give such instructions as to the manner of making entries in the register book, as to the execution and attestation of powers of attorney, as to any evidence to be required for identifying any person, and generally as to any act or thing to be done in pursuance of the second part of this Act, as they may think fit.

Power to registrar to dispense with declarations and other evidence.

97. Whenever in any case in which under the second part of this Act any person is required to make a declaration on behalf of himself or of any body corporate, or any evidence is required to be produced to the registrar, it is shown to the satisfaction of the registrar that from any reasonable cause such person is unable to make the declaration, or that such evidence cannot be produced, it shall be lawful for the registrar, with the sanction of the Commissioners of Customs, and upon the production of such other evidence, and subject to such terms as they may think fit, to dispense with any such declaration or evidence.

Power for Commissioners or Governor in specified cases to grant a pass to a ship not registered.

98. In cases where it appears to the Commissioners of Customs, or to the Governor or other person administering the Government of any British possession, that by reason of special circumstances it would be desirable that permission should be granted to any British ship to pass, without being previously registered, from one port or place in Her Majesty's dominions to any other port or place within the same, it shall be lawful for such Commissioners or Governor or other person to grant a pass accordingly, and such pass shall for the time and within the limits therein mentioned have the same effect as a certificate of registry.

Provision for cases of infancy or other incapacity.

99. If any person interested in any ship or any share therein is, by reason of infancy, lunacy, or other inability, incapable of making any declaration or doing anything required or permitted by this Act to be made or done by such incapable person in respect of registry, then the guardian or committee, if any, of such incapable person, or, if there be none, any person appointed by any court or judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration, or a declaration as nearly corresponding thereto as circumstances permit, and do such thing, in the name and on behalf of such incapable person; and all acts done by such substitute shall be as effectual as if done by the person for whom he is substituted.

Liabilities of owners.

100. Whenever any person is beneficially interested, otherwise than by way of mortgage, in any ship or share therein registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this or by any other Act on owners of ships or shares therein, so nevertheless that proceedings may

be taken for the enforcement of any such pecuniary penalties against both or either of the aforesaid parties, with or without joining the other of them. *Registry, Miscellaneous.*

Forgery.

Forgery.

101. Any person who forges, assists in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulenty altered, any register book, certificate of surveyor, certificate of registry, declaration of ownership, bill of sale, instrument of mortgage, certificate of mortgage or sale, or any entry or indorsement required by the second part of this Act to be made in or on any of the above documents, shall for every such offence be deemed to be guilty of felony. *Punishment for forgery.*

National Character.

National Character.

102. No officer of Customs shall grant a clearance or transire for any ship until the master of such ship has declared to such officer the name of the nation to which he claimst hat she belongs, and such officer shall thereupon inscribe such name on the clearance or transire; and if any ship attempts to proceed to sea without such clearance or transire, any such officer may detain her until such declaration is made. *National character of ship to be declared before clearance.*

103. The offences hereinafter mentioned shall be punishable as follow (that is to say)— *Penalties.*

(1) if any person uses the British flag and assumes the British national character on board any ship owned in whole or in part by any persons not entitled by law to own British ships, for the purpose of making such ship appear to be a British ship, such ship shall be forfeited to Her Majesty, unless such assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in exercise of some belligerent right; and in any proceeding for enforcing any such forfeiture the burden of proving a title to use the British flag and assume the British national character shall lie upon the person using and assuming the same: *For unduly assuming a British character.*

(2) If the master or owner of any British ship does or permits to be done any matter or thing, or carries or permits to be carried any papers or documents, with intent to conceal the British character of such ship from any person entitled by British law to inquire into the same, or to assume a foreign character, or with intent to deceive any such person as lastly hereinbefore mentioned, such ship shall be forfeited to Her Majesty; and the master, if he commits or is privy to the commission of the offence, shall be guilty of a misdemeanor: *For concealment of British or assumption of foreign character.*

(3) If any unqualified person, except in the case of such transmitted interests as are hereinbefore mentioned, acquires as owner any interest, either legal or beneficial, in a ship using a British flag *For acquiring ownership, if unqualified.*

National Character.

and assuming the British character, such interest shall be forfeited to Her Majesty:

For false declaration of ownership.

(f) If any person, on behalf of himself or any other person or body of persons, wilfully makes a false declaration touching the qualification of himself or such other person or body of persons to own British ships or any shares therein, the declarant shall be guilty of a misdemeanor; and the ship or share in respect of which such declaration is made, if the same has not been forfeited under the foregoing provision, shall, to the extent of the interest therein of the person making the declaration, and, unless it is shown that he had no authority to make the same, of the parties on behalf of whom such declaration is made, be forfeited to Her Majesty:

And in order that the above provisions as to forfeitures may be carried into effect, it shall be lawful for any commissioned officer on full pay in the military or naval service of Her Majesty, or any British officer of Customs, or any British Consular officer, to seize and detain any ship which has, either wholly or as to any share therein, become subject to forfeiture as aforesaid, and to bring her for adjudication before the High Court of Admiralty in England or Ireland, or any court having Admiralty jurisdiction in Her Majesty's dominions; and such court may thereupon make such order in the case as it may think fit, and may award to the officer bringing in the same for adjudication such portion of the proceeds of the sale of any forfeited ship or share as it may think right.

Penalty for false declaration under Merchant Shipping Act, 1854.

103*a*. Any person who, in any declaration made in the presence of or produced to any registrar of shipping, in pursuance of the second part of the Merchant Shipping Act, 1854, or in any documents or other evidence produced to such registrar, wilfully makes or assists in making or procures to be made any false statement concerning the title to or the ownership of or the interests existing in any ship, or any share or shares in any ship, or who utters, produces or makes use of any declaration or document containing any such false statement knowing the same to be false, shall be guilty of a misdemeanor.—[Merchant Shipping Act Amendment Act, 1855, 18 & 19 Vic., c. 91, s. 9.]

False declaration.

103*b*. If any person or persons shall falsely make declaration to any of the matters hereinbefore required to be verified by declaration, or if any person or persons shall counterfeit, erase, alter, or falsify any certificate or other instrument in writing required or directed to be obtained, granted, or produced by this Act, or shall knowingly or wilfully make use of any certificate or other instrument so counterfeited, erased, altered, falsified, or shall wilfully grant such certificate or other instrument in writing knowing it to be false, such person or persons shall for every such offence be liable [on conviction before a presidency magistrate or a magistrate of the first class][1] to a penalty not ex-

Falsifying documents.

[1] Act V of 1883, s. 38.

ceeding ten thousand rupees. And if any such offence be committed by the owner of any ship or vessel, the certificate of such ship or vessel shall thenceforth be wholly void.—[Ship Registry—Act X of 1841, s. 23.]

National Character.

104. No such officer as aforesaid shall be responsible, either civilly or criminally, to any person whomsoever, in respect of the seizure or detention of any ship that has been seized or detained by him in pursuance of the provisions herein contained, notwithstanding that such ship is not brought in for adjudication, or, if so brought in, is declared not to be liable to forfeiture, if it is shown to the satisfaction of the judge or court before whom any trial relating to such ship or such seizure or detention is held that there were reasonable grounds for such seizure or detention; but if no such grounds are shown, such judge or court may award payment of costs and damages to any party aggrieved, and make such other order in the premises as it thinks just.

Officer not liable for any seizure made on reasonable grounds.

Penalties.

105. If any colours usually worn by Her Majesty's ships, or any colours resembling those of Her Majesty, or any distinctive national colours, except the red ensign usually worn by merchant ships, or except the union jack with a white border, or if the pendant usually carried by Her Majesty's ships, or any pendant in anywise resembling such pendant, are or is hoisted on board any ship or boat belonging to any subject of Her Majesty without warrant for so doing from Her Majesty or from the Admiralty, the master of such ship or boat, or the owner thereof, if on board the same, and every other person hoisting or joining or assisting in hoisting the same, shall for every such offence incur a penalty not exceeding five hundred pounds; and it shall be lawful for any officer on full pay in the military or naval service of Her Majesty, or any British officer of the Customs, or any British Consular officer, to board any such ship or boat, and to take away any such jack, colours, or pendant; and such jack, colours, or pendant shall be forfeited to Her Majesty.

Penalty for carrying improper colours.

105*a*. If any vessel belonging to any of Her Majesty's subjects, or sailing under British colours, hoist, carry, or wear, within the limits of any port subject to this Act, any flag, jack, pendant, or colours, the use whereof on board such vessel has been prohibited by the Statute 17th and 18th of Victoria, chapter 104, or any other Statute now or hereafter to be in force, or by any proclamation made or to be made in pursuance of any such Statute, or by any of Her Majesty's Regulations in force for the time being, the master of such vessel shall, for every such offence, be punished with fine which may extend to fifty rupees.

Hoisting unlawful colours in port.

Such fine shall be in addition to any other penalty recoverable under the said Statute or any future Statute to be made in that behalf.

Any officer of Her Majesty's Navy within the limits of such port, or the conservator of such port, may enter on board any such vessel, and seize and take away any flag, jack, pendant, or colour so unlawfully hoisted, carried, or worn on board the same.—[The Indian Ports Act, 1875—Act XII of 1875, s. 73.]

106. Whenever it is declared by this Act that a ship belonging to any person or body corporate qualified according to this Act to be owners of

Effect of declaration in the Act that a ship shall

National Character.

not be recognised as a British ship.

British ships shall not be recognised as a British ship, such ship shall not be entitled to any benefits, privileges, advantages, or protection usually enjoyed by British ships, and shall not be entitled to use the British flag or assume the British national character; but, so far as regards the payment of dues, the liability to pains and penalties, and the punishment of offences committed on board such ship or by any persons belonging to her, such ship shall be dealt with in the same manner in all respects as if she were a recognised British ship.

Evidence.

Copies of registers and declarations to be admissible in evidence, and to be *primâ facie* proof of certain things.

Evidence.

107. Every register of or declaration made in pursuance of the second part of this Act in respect of any British ship may be proved in any court of justice, or before any person having by law or by consent of parties authority to receive evidence, either by the production of the original or by an examined copy thereof, or by a copy thereof purporting to be certified under the hand of the registrar or other person having the charge of the original; which certified copies he is hereby required to furnish to any person applying at a reasonable time for the same, upon payment of one shilling for each such certified copy; and every such register or copy of a register, and also every certificate of registry of any British ship, purporting to be signed by the registrar or other proper officer, shall be received in evidence in any court of justice, or before any person having by law or by consent of parties authority to receive evidence, as *primâ facie* proof of all the matters contained or recited in such register, when the register or such copy is produced, and of all the matters contained in or indorsed on such certificate of registry, and purporting to be authenticated by the signature of a registrar, when such certificate is produced.

Testimony of registering officers.

107*a*. And whereas great inconvenience may arise from the registering officers being served with subpœnas requiring them to bring with them and produce, on trials in courts of law relative to the ownership of vessels, or otherwise the declarations required to be taken by the owners thereof prior to the registering thereof, and the books of registry, or copies or extracts therefrom. And whereas it would tend much to the dispatch of business if the attendants of such registering officers with the same upon such trials were dispensed with, it is therefore hereby enacted that the registering officer at any port or place, and the person or persons acting for them respectively, shall, upon every reasonable request by any person or persons whomsoever, produce and exhibit for his, her, or their inspection and examination any declaration made by any such owner or owners, and also any register or entry in any book or books of registry required, and shall upon every reasonable request by any person or persons whomsoever, permit him, her, or them to take a copy or copies or an extract or extracts thereof respectively, and that the copy or copies of any such oath or declaration, registry or entry, shall, upon being proved to be a true copy or copies thereof respectively, be allowed

and received as evidence upon every trial at law, without the production of the original or originals and without the testimony or attendance of any registering officer, or other person or persons acting for them respectively, in all cases as fully, and to all intents and purposes as each original or originals if produced by any registering officer, or other person or persons acting for them, could or might legally be admitted or received in evidence.—[Ship Registry—Act X of 1841, s. 22.] *Evidence.*

107*b*. The copy or transcript of the register of any British ship which is kept by the chief registrar of shipping at the Custom House in London, or by the Registrar General of Seamen under the direction of Her Majesty's Commissioners of Customs, or of the Board of Trade, shall have the same effect, to all intents and purposes, as the original register of which the same is a copy or transcript.—[The Merchant Shipping Act Amendment Act, 1855, 18 & 19 Vic., c. 91, s. 15.] General register books in London.

Saving Clause.

Saving Clause.

108. Nothing in this Act contained shall repeal or affect an Act passed in the session of Parliament holden in the third and fourth years of the reign of Her present Majesty, chapter fifty-six, intituled "An Act further to regulate the trade of ships built and trading within the limits of the East India Company's charter."[1] Saving of 3 & 4 Vict., c. 56, relating to East Indian ships.

108*a*. And be it enacted that in all cases in which by the said last-mentioned Act[2] it is made lawful for any governor, lieutenant-governor, or commander-in-chief of any of Her Majesty's colonies, plantations, islands, or territories, and they are thereby authorised and required, if any suit, information, libel, or other prosecution or proceeding, of any nature or kind whatever, Stay of proceedings as to ships' registers in certain cases.

[1] "Limits of East India Company" for the purposes of that Act is construed by s. 9 of 3 & 4 Vic., c. 56, s. 9 to mean all places and seas eastward of the Cape of Good Hope to the Straits of Magellan.

The above section giving the definition of the words limits of the East India Company, and s. 108*a* are the only two sections of 3 & 4 Vic., c. 56 which are now in force.

[2] [The Act 3 and 4 Will. 4., c. 55 (an Act for the registering of British vessels), which is repealed by 8 & 9 Vic., c. 84., s. 2, contained the following provision:—

Sech. 44. And be it further enacted that it shall and may be lawful for any governor, lieutenant-governor, or commander-in-chief of any of His Majesty's colonies, plantations, islands, or territories, and they are hereby respectively authorised and required, if any suit, information, libel, or other prosecution or proceeding of any nature or kind whatever, shall have been commenced or shall hereafter be commenced in any court whatever in any of the said colonies, plantations, islands, or territories respectively, touching the force and effect of any register granted to any ship or vessel, upon a representation made to any such governor, lieutenant-governor, or commander-in-chief, to cause all proceedings thereon to be stayed, if he shall see just cause so to do until His Majesty's pleasure shall be known and certified to him by His Majesty, by and with the advice of His Majesty's Privy Council; and such governor, lieutenant-governor, commander-in-chief is hereby required to transmit to one of His Majesty's principal Secretaries of State, to be laid before His Majesty in Council, an authenticated copy of the proceedings in every such case, together with his reasons for causing the same to be stayed, and such documents (properly verified) as he may judge necessary for the information of His Majesty.]

Saving Clause.

Stay of proceedings as to ships registers in certain cases.

shall have been commenced or shall hereafter be commenced in any court whatever in any of the said colonies, plantations, islands, or territories respectively, touching the force and effect of any register granted to any ship or vessel, upon a representation made to any such governor, lieutenant-governor, or commander-in-chief, to cause all proceedings thereon to be stayed, as in the said last-mentioned Act is provided; it shall be lawful, in the territories under the Government of the East Indian Company, for the Governor General of India in Council, or the Governor of the said Presidency of Fort William in Bengal, or for the respective Governors in Council or Governors of the said Presidencies of Fort Saint George and Bombay, or the Governor of Prince of Wales Island, Singapore, and Malacca, according to circumstances, and as the case may be, and they are respectively authorised and required, if any such suit, information, libel, or other prosecution or proceeding whatever shall have been commenced or shall hereafter be commenced in any of Her Majesty's courts whatever, in or in any place subordinate to the said several presidencies, or the Government of Prince of Wales Island, Singapore, and Malacca respectively, touching the force and effect of any register granted to any ship or vessel, upon a representation made to any such Governor General of India in Council, or Governor of the said Presidency of Fort William in Bengal, or Governors in Council, or Governors of the said Presidencies of Fort Saint George and Bombay respectively, or such Governor of Prince of Wales Island, Singapore, and Malacca, according to circumstances, and as the case may be, to cause all proceedings thereon to be stayed, if he shall see just cause so to do, until Her Majesty's pleasure shall be known and certified to him by Her Majesty, by or with the advise of Her Majesty's Privy Council; and such Governor General of India in Council, or Governor of the said Presidency of Fort William in Bengal, or Governor in Council or Governor of the said Presidencies of Fort Saint George and Bombay respectively, or such Governor of Prince of Wales Island, Singapore, and Malacca respectively, is hereby required to transmit to the Court of Directors of the East India Company, to be by them forwarded to the President of the Board of Commissioners for the affairs of India, to be by them forthwith forwarded to the President of the Board of Commissioners for the affairs of India, to be laid before Her Majesty in Council, an authenticated copy of the proceedings in every such case together with his reasons for causing the same to be stayed and such documents properly verified as he may judge necessary for the information of Her Majesty.—[3 & 4 Vic., c. 56. s. 8.]

PART III.

MASTERS AND SEAMEN.

Application.

Application.

Application of part III of Act.

109. The various provisions of the third part of this Act shall have the following applications, unless the context or subject-matter requires a different application (that is to say)—

Returns for certain ships belonging to the United Kingdom.

So much of the third part of this Act as relates to the delivery or transmission of lists of crews to the Registrar General of Seamen shall apply to all fishing vessels belonging to the United Kingdom whether employed exclusively on the coasts of the United Kingdom or not; to all ships belonging to the Trinity House, or the Commissioners of Northern Light-houses, constituted as hereinafter mentioned, or the Port of Dublin Corporation, and to all pleasure yachts, and to the owners, masters, and crews of such ships;

Returns and wages of deceased seamen in certain colonial ships.

So much of the third part of this Act as relates to the delivery and transmission of lists of crews, and the wages and effects of deceased seamen and apprentices, shall apply to all sea-going British ships, wherever registered, of which the crews are discharged, of whose final port of destination is in the United Kingdom, and to the owners, masters, and crews of such ships;

Shipping and discharging men in the United Kingdom.

So much of the third part of this Act as relates to the shipping and discharge of seamen in the United Kingdom shall apply to all sea-going British ships, wherever registered, and to the owners, masters, and crews of such ships;

Volunteering into the Navy.

So much of the third part of this Act as relates to seamen volunteering into the Royal Navy shall apply to all sea-going British ships, wherever registered, and to the owners, masters, and crews of such ships, wherever the same may be;

Provisions applicable to colonial ships.

So much of the third part of this Act as relates to rights to wages and remedies for the recovery thereof; to the shipping and discharge of seamen in foreign ports; to leaving seamen abroad, and to the relief of seamen in distress in foreign ports; to the provisions, health, and accommodation of seamen; to the power of seamen to make complaints; to the protection of seamen from imposition; to discipline; to naval courts on the high seas and abroad; and to crimes committed abroad, shall apply to all ships registered in any of Her Majesty's dominions abroad, when such ships are out of the jurisdiction of their respective governments, and to the owners, masters, and crews of such ships;

Application.

Application of whole of Part III of Act.

And the whole of the third part of this Act shall apply to all sea-going ships registered in the United Kingdom (except such as are exclusively employed in fishing on the coasts of the United Kingdom, and such as belong to the Trinity House, the Commissioners of Northern Light-houses, or the Port of Dublin Corporation, and also except pleasure yachts), and also all to ships registered in any British possession and employed in trading or going between any place in the United Kingdom and any place or places not situate in the possession in which such ships are registered, and to the owners, masters, and crews of such ships respectively, wherever the same may be.[1]

Third part of Act to apply to fishing boats, light-houses, registered pleasure yachts with certain exceptions.

109*a*. The following vessel (that is to say)—

(1) [*Registered sea-going ships exclusively employed in fishing on the coasts of the United Kingdom;*][2]

(2) Sea-going ships belonging to any of the three general light-house boards;

(3) Sea-going ships being pleasure yachts;

shall be subject to the whole of the third part of the principal Act, except Sections 136, 143, 145, 147, 149, 150, 151, 152, 153, 154, [illegible] 157, 158, 161, 162, 166, 170, 171, 231, 256, 279, 280, 281, 282, 283, [illegible] 285, 286, and 287.—[The Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 13.]

Local Marine Boards.

Local Marine Boards.

Constitution of local marine boards.

110. There shall be local marine boards for carrying into effect the provisions of this Act under the superintendence of the Board of Trade at those seaports of the United Kingdom at which local marine boards have heretofore been established, and at such other places as the Board of Trade appoints for this purpose; and each of such local marine boards shall be constituted as follows: (that is to say) the mayor or provost and the stipendiary magistrate or such of the mayors or provosts and stipendiary magistrates of the place (if more than one) as the Board of Trade appoints shall be a member or members ex-officio; the Board of Trade shall appoint four members from persons residing or having places of business at the port or within seven miles thereof; and the owners of foreign-going ships and of home-trade passenger ships registered at the port shall elect six members; and such elections as aforesaid

[1] By s. 49 of 46 and 47 Vic., c. 41, Merchant Shipping (Fishing Boats) Act, 1883, it is enacted that an unregistered British Ship (which ought to be registered under the Merchant Shipping Act, 1854) shall for the purposes of s. 109 of the Merchant Shipping Act, 1854, be deemed to have been registered in the United Kingdom.

It appears very doubtful whether 46 and 47 Vic., c. 41, applies to India, the Act is not expressly made applicable, nor can it be implied from any of the sections that it is intended to be so applied, indeed the inference to be drawn from sections 1 and 55 is rather the other way; but inasmuch as the section is an important addition to 17 & 18 Vic., c. 104, s. 109, it has been added in the above foot-note.

[2] Repealed in England by Merchant Shipping (Fishing Boats) Act, 1883, 46 & 47 Vic., c. 41, s. 35.

shall take place on the twenty-fifth day of January one thousand eight hundred and fifty-seven, and on the twenty-fifth day of January in every third succeeding year, and such appointments as aforesaid shall take place within one month after such elections; and upon the conclusion of such month and the constitution of a new board the functions of the then existing board shall cease, and the board consisting of the members then newly elected and appointed shall take its place; and any occasional vacancy caused in the intervals between the general elections and appointments by death, resignation, disqualification, or otherwise, shall be filled up within one month after it occurs; and every person elected or appointed on an occasional vacancy shall continue a member until the next constitution of a new board; and the mayor or provost shall fix the place and mode of conducting all such elections as aforesaid, and also on occasional vacancies the day of election, and shall give at least ten days' notice thereof; and the Board of Trade shall have power to decide any questions raised concerning any such elections. Local Marine Boards.

111. Owners of foreign-going ships and of home-trade passenger ships registered at any seaport at which there is a local marine board shall have votes at the election of members of such board as follows: (that is to say) every registered owner of not less than two hundred and fifty tons in the whole of such shipping shall at very election have one vote for each member for every two hundred and fifty tons owned by him, so that his votes for any one member do not exceed ten: And for the purpose of ascertaining the qualification of such electors the following rules shall be observed: (that is to say) in the case of a ship registered in the name of one person, such person shall be deemed to be the owner, and in the case of a ship registered in distinct and several shares in the names of more persons than one, the tonnage shall be apportioned among the owners as nearly as may be in proportion to their respective shares, and each of such persons shall be deemed to be the owner of the tonnage so apportioned to him; and in the case of a ship or shares of a ship registered jointly without severance of interest in the names of more persons than one, the tonnage shall, if it is sufficient, either alone or together with other tonnage (if any) owned by such joint owners, to give a qualification to each of them, be apportioned equally between the joint owners and each of such joint owners shall be deemed to be the owner of the equal share so apportioned to him; but if it is not so sufficient, the whole of such tonnage shall be deemed to be owned by such one of the joint owners resident or having a place of business at the port or within seven miles thereof as is first named on the register; and in making any such apportionments as aforesaid any portion may be struck off so as to obtain a divisible amount; and the whole amount of tonnage so owned by each person, whether in ships or shares of or interests in ships, shall be added together, and, if sufficient, shall constitute his qualification. Qualification of voters for members of local marine boards.

112. The collector or comptroller of customs in every seaport of the United Kingdom at which there is a local marine board shall, with the assist- List of such voters to be made.

Local Marine Boards.

If any local marine board fails to discharge its duties, Board of Trade may take its duties, or direct a new election.

120. If any local marine board, by reason of any election not taking place, or of the simultaneous resignation or continued non-attendance of all or the greater part of the members, or from any other cause, fails to meet or to discharge its duties, the Board of Trade may in its discretion either take into its own hands the performance of the duties of such local marine board until the next triennial appointment and election thereof, or direct that a new appointment and election of such local marine board shall take place immediately.

Board of Trade, on complaint, may alter appointments made by local marine boards.

121. If upon complaint made to the Board of Trade it appears to such Board that any appointments or arrangements made by any local marine board under the powers hereby given to it are not such as to meet the wants of the port, or are in any respect unsatisfactory or improper, the Board of Trade may annul, alter, or rectify such appointments or arrangements in such manner as, having regard to the intentions of this Act and to the wants of the port, it deems to be expedient.

Shipping Offices.

Shipping Offices.

Local marine boards to establish shipping offices.

122. In every seaport in the United Kingdom in which there is a local marine board such board shall establish a shipping office or shipping offices, and may for that purpose, subject as herein mentioned, procure the requisite premises, and appoint and from time to time remove and re-appoint superintendents of such offices, to be called shipping masters, with any necessary deputies, clerks, and servants, and regulate the mode of conducting business at such offices, and shall, subject as herein mentioned, have complete control over the same; and every act done by or before any deputy duly appointed shall have the same effect as if done by or before a shipping master.

Titles of shipping masters.

122*a*. The offices termed shipping offices in the principal Act shall be deemed mercantile marine offices, and the officers termed shipping masters in the principal Act shall be termed superintendents and deputy superintendents of such offices; but nothing in this section contained shall invalidate or effect any Act which may be done at any such office under the title of a shipping office, or any Act which may be done by, with, or to any of the said officers under the title of shipping master or deputy shipping master.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 15.]

122*b*. Whereas the law for the registry of seamen and the grant of register tickets has been found to be ineffective for the purposes intended; and whereas by section 288 of an Act of the Imperial Parliament called "The Merchant Shipping Act, 1854," it is enacted that, "if the Governor General of India in Council, or the respective legislate authorities in any British possession abroad, by any Acts, Ordinances, or other appropriate legal means, apply or adapt any of the provisions in the third part of this Act contained to any British ships registered at, trading with, or being at any place within

their respective jurisdictions, and to the owners, masters, mates, and crews thereof, such provisions, when so applied and adapted as aforesaid, and as long as they remain in force, shall in respect of the ships and persons to which the same are applied be enforced, and penalties and punishments for the breach thereof shall be recovered and inflicted throughout Her Majesty's dominions, in the same manner as if such provisions had been hereby so adapted and applied, and such penalties and punishments had been hereby expressly imposed." And whereas it is expedient to discontinue the practice of registry and the grant of register-tickets, and to apply to ships registered at, trading with, or being at any port or place in India, certain provisions of the third part of the said Act with such adaptations and modifications as are required, and for the purposes aforesaid to repeal the laws now in force in India relating to merchant-seamen: It is enacted as follows:—

Shipping Offices.

A shipping office shall be established at each of the ports of Calcutta, Madras, and Bombay, and at such other ports as the Governor General of India in Council shall hereafter deem necessary. For every such office there shall be a superintendent, to be called a "shipping master," with such necessary deputies, clerks, and servants, at such salaries, and subject to such regulations, as the Local Government[1] shall from time to time, with the sanction of the Governor General of India in Council, direct and appoint.

Every act done by or before any deputy duly appointed shall have the same effect as if done by or before a shipping master.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 2.[2]]

123. The sanction of the Board of Trade shall be necessary so far as regards the number of persons so appointed by any such local marine board, and the amount of their salaries and wages and all other expenses; and the Board of Trade shall have the immediate control of such shipping offices, so far as regards the receipt and payment of money thereat; and all shipping masters, deputies, clerks, and servants so appointed as aforesaid shall before entering upon their duties give such security (if any) for the due performance thereof as the Board of Trade requires; and if in any case the Board of Trade has reason to believe that any shipping master, deputy, clerk, or servant appointed by any local marine board does not properly discharge his duties, the Board of Trade may cause the case to be investigated, and may, if it

Board of Trade to have partial control over shipping offices.

[1] Under the provision of Act XXII of 1867, the Governor General in Council delegated to the Chief Commissioner of British Burma the powers conferred on a Local Government by this Act.—*Gazette of India*, March 22, 1873, p. 236.

[2] Secs. 2—99 of Act I of 1859 correspond with secs. 122—237 of 17 & 18 Vic., c. 104.

Act I of 1859 is declared to extend to the whole of British India, except the Scheduled Districts, Act No. XV of 1874.

But nothing in Act I of 1859 shall extend to any ship belonging to or in the service of Her Majesty, or to any ship belonging to any foreign Prince or State; and nothing in the Act except as otherwise hereinafter provided shall extend to the ships belonging to the subjects of any foreign Prince or State.

Shipping Officer.

thinks fit so to do, remove him from his office, and may provide for the proper performance of his duties until another person is properly appointed in his place.

Appointment, &c. of shipping masters and deputies.

123*a*. The Local Government shall have power to appoint and remove such shipping masters and deputies who shall respectively be subject to the control of that Government or of any intermediate authority which it may appoint.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 3.]

Business of shipping officers generally.

124. It shall be the general business of shipping masters appointed as aforesaid—

To afford facilities for engaging seamen, by keeping registries of their names and characters;

To superintend and facilitate their engagement and discharge in manner hereinafter mentioned;

To provide means for securing the presence on board at the proper times of men who are so engaged;

To facilitate the making of apprenticeships to the sea service;

To perform such other duties relating to merchant seamen and merchant ships as are hereby or may hereafter under the powers herein contained be committed to them.

Business of shipping masters.

124*a*. It shall be the general business of shipping masters appointed under this Act to superintend and facilitate the engagement and discharge of seamen in manner hereinafter mentioned, to provide means for securing the presence on board at the proper times of men who are so engaged, and to perform such other duties relating to merchant seamen and merchant ships as are hereby or under the said Merchant Shipping Act, 1854, or as may hereafter, under the powers herein contained, be committed to them.

It shall also be the duty of shipping masters to give to all persons desirous of apprenticing boys to the sea service, and duly authorised so to do by Act XIX of 1850 (*concerning the binding of apprentices*), and also to masters and owners of the ships requiring apprentices, such assistance as may be in their power for facilitating the making of such apprenticeships.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 4.]

Fees to be paid upon engagements and discharges.

125. Such fees, not exceeding the sum specified in the table marked P in the schedule hereto, as are from time to time fixed by the Board of Trade, shall be payable upon all engagements and discharges effected before shipping masters as hereinafter mentioned, and the Board of Trade shall cause scales of the fees payable for the time being to be prepared and to be conspicuously placed in the shipping offices; and all shipping-masters, their deputies, clerks, and servants, may refuse to proceed with any engagement or discharge unless the fees payable thereon are first paid.

TABLE P. (See Section 125.)

Shipping Offices.

Fees to be charged for matters transacted at Shipping Offices.

1. Engagement of Crews.

	£	s.	d.
In ships under 60 tons	0	4	6
60 to 100 „	0	7	0
100 to 200 „	0	15	0
200 to 300 „	1	0	0
300 to 400 „	1	5	0
400 to 500	1	10	0
500 to 600 „	1	15	0
600 to 700 „	2	0	0
700 to 800 „	2	5	0
800 to 900 „	2	10	0
900 to 1,000 „	2	15	0
Above 1,000 „	3	0	0

And so on for ships of larger tonnage, adding, for every 100 tons, above 1,000, five shillings.

2. Engagement of Seamen separately.
Two shillings for each.

3. Discharge of Crews.

	£	s.	d.
In ships under 60 tons	0	4	0
60 to 100 „	0	7	0
100 to 200 „	0	15	0
200 to 300 „	1	0	0
300 to 400 „	1	5	0
400 to 500 „	1	10	0
500 to 600 „	1	15	0
600 to 700 „	2	0	0
700 to 800 „	2	5	0
800 to 900 „	2	10	0
900 to 1,000 „	2	15	0
Above 1,000 „	3	0	0

And so on for ships of larger tonnage, adding, for every 100 tons above 1,000, five shillings.

4. Discharge of Seamen separately.
Two shillings for each.

Fees to be paid upon engagements and discharges.

125*a*. Such fees, not exceeding the sums specified in the table marked A in the schedule to this Act, as are from time to time fixed by the Local Government, shall be payable upon all engagements and discharges effected before shipping masters as hereinafter mentioned. Scales of the fees payable for the time being shall be conspicuously placed in the shipping offices; and all shipping masters, their deputies, clerks, and servants may refuse to proceed with any engagement unless the fees payable thereon are first paid.

TABLE A. (See Section 5.)

Fees to be charged for matters transacted at shipping offices.

1.—Engagement or Discharge of Crews.

	R	a.	p.
In ships under 100 tons	3	0	0
From 100 to 200 „	7	0	0
200 to 300 „	10	0	0
300 to 400 „	12	8	0
400 to 500 „	15	0	0
500 to 600 „	17	8	0
600 to 700 „	20	0	0
700 to 800 „	22	8	0
800 to 900 „	25	0	0
900 to 1,000 „	27	8	0
above 1,000 „	30	0	0

Shipping Offices.

and so on for ships of larger tonnage, adding, for every one hundred tons above one thousand, two rupees and eight annas.

2.—Engagement or Discharge of Seamen separately. One rupee for each seaman.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 5.]

Masters to pay fees and to deduct part from wages.

126. Every owner or master of a ship engaging or discharging any seamen or seaman in a shipping office or before a shipping master shall pay to the shipping master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain, any sums not exceeding the sums specified in that behalf in the table marked Q in the schedule hereto: Provided that, if in any cases the sums which the owner is so entitled to deduct exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping master in addition to such fee.

Proviso as to excess.

TABLE Q. (See Section 126.)

Sums to be deducted from Wages by way of partial Repayment of Fees in Table P.

1. In respect of Engagement and Discharges of Crews, upon each Engagement and each Discharge:	s. d.	2. In respect of Engagements and Discharges of Seamen separately, upon each Engagement and each Discharge:
From wages of any mate, purser, engineer, surgeon, carpenter, or steward	1 6	One shilling.
From wages of all others, except apprentices	1 0	

Fees by whom to be paid, &c.

126a. Every owner or master of a ship engaging or discharging any seaman in a shipping office or before a shipping master shall pay to the shipping master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain, any sums not exceeding the sums specified in that behalf in the table marked B in the schedule hereto:

Provided that, if in any cases the sums which the owner is so entitled to deduct exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping master in addition to such fee.

TABLE B. (See Section 6.)

Sum to be deducted from Wages by way of partial Repayment of Fees in Table A.

	R.	a.	p.
1.—In respect of Engagements and Discharges of Crews, upon each Engagement and each Discharge:			
From wages of any mate, purser, engineer, surgeon, carpenter, or steward	0	12	0
From wages of all others except apprentices	0	8	0
2.—In respect of Engagements and Discharges of Seamen separately, upon each Engagement and each Discharge	0	8	0

[Merchant Seamen's Act, 1859—Act I of 1859, s. 6.]

Fees to be paid and to be deducted from wages.

126*b*. The fees prescribed in section 6 of this Act shall be payable in respect of every such engagement, and deductions from the wages of seamen so engaged may be made to the extent and in the manner allowed by the said section.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 116.]

Penalty on shipping masters taking other remuneration.

127. Any shipping master, deputy shipping master, or any clerk or servant in any shipping office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for any merchant ship, excepting the lawful fees payable under this Act, shall for every such offence incur a penalty not exceeding twenty pounds, and shall also be liable to be dismissed from his office by the Board of Trade.

Penalty on shipping master taking other remuneration.

127*a*. Any shipping master, deputy shipping master, or any clerk or servant in any shipping office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for any merchant ship, excepting the lawful fees payable under this Act, shall for every such offence incur a penalty not exceeding two hundred rupees, and shall also be dismissed from his office.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 7.]

Punishment of officers of local marine boards for embezzlement, under 24 & 25 Victoria, c. 96, s. 68.

127*b*. Any person appointed to any office or service by or under any local marine board shall be deemed to be a clerk or servant within the meaning of the sixty-eighth section of the Act of the twenty-fifth year of the reign of Her present Majesty, chapter ninety-six:

If any such person fraudulently applies or disposes of any chattel, money, or valuable security received by him whilst employed in such office or service for or on account of any such local marine board, or for or on account of any other public board or department, to his own use or any use or purpose other than that for which the same was paid, entrusted to, or received by him, or fraudulently withholds, retains, or keeps back the same or any part thereof contrary to any lawful directions or instructions which he is required to obey in relation to such office or service, he shall be deemed guilty of embezzlement within the meaning of the said section:

Shipping Offices.

Any such person shall, on conviction of such offence as aforesaid, be liable to the same pains and penalties as are thereby imposed upon any clerk or servant for embezzlement:

In any indictment against such person for such offence it shall be sufficient to charge any such chattel, money, or valuable security as the property either of the board by which he was appointed, or of the board or department for or on account of which he may have received the same; and no greater particularity in the description of the property shall be required in such indictment in order to sustain the same, or in proof of the offence alleged, than is required in respect of an indictment or the subject-matter thereof by the seventy-first section of the said last-mentioned Act.—[The Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 16.]

Business of shipping offices may be transacted at custom-houses.

128. The Board of Trade may, with the consent of the Commissioners of Customs, direct that any place in which no separate shipping office is established, the whole or any part of the business of the shipping office shall be conducted at the custom-house, and thereupon the same shall be there conducted accordingly; and in respect of such business such custom-house shall for all purposes be deemed to be a shipping office and the officer of customs there, to whom such business is committed, shall for all purposes be deemed to be a shipping master within the meaning of this Act.

Business of shipping office may be transacted at custom-house or elsewhere.

128*a*. The Local Government may direct that, at any place at which no separate shipping office is established, the whole or any part of the business of the shipping office shall be conducted at the custom-house, or at the office of the master attendant or harbour master, or at such other office as the Government shall direct, and thereupon the same shall be there conducted accordingly; and in respect of such business such custom-house or office as aforesaid shall for all purposes be deemed to be a shipping office, and the officer of customs or other officer there, to whom such business is committed, shall for all purposes be deemed to be shipping master within the meaning of this Act.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 8.]

In London sailors' homes may be shipping offices.

129. The Board of Trade may appoint any superintendent of or other person connected with any sailors' home in the port of London to be a shipping master, with any necessary deputies, clerks, and servants, and may appoint any office in any such home to be a shipping office; and all shipping masters and shipping offices so appointed shall be subject to the immediate control of the Board of Trade, and not of the local marine board of the port.

Dispensation with shipping master's superintendence.

130. The Board of Trade may from time to time dispense with the transaction before a shipping master or in a shipping office of any matters required by this Act to be so transacted; and thereupon such matters shall, if otherwise duly transacted as required by law, be as valid as if transacted before a shipping master or in a shipping office.

Power for Board of Trade to establish mercantile marine

130*a*. In any case where the business of a mercantile marine office is conducted otherwise than under a local marine board, the Board of Trade may, if they think fit, instead of conducting such business at a custom-house or other-

wise, establish a mercantile marine office, and for that purpose procure the requisite buildings and property, and from time to time appoint and remove all the requisite superintendents, deputies, clerks, and servants. They may also in the like case make all such provisions and exercise all such powers with respect to the holding of examinations for the purpose of granting certificates of competency as masters, mates, or engineers, to persons desirous of obtaining the same, as might have been made or exercised by a local marine board.—[The Merchant Shipping Act, 1873, 36 & 37 Vic., c. 83, s. 10.]

Shipping Offices.

Offices and to hold examinations at certain ports.

Examinations and Certificates of Masters and Mates.

Examinations & Certificates of Masters and Mates.

131. Examinations shall be instituted for persons who intend to become masters or mates of foreign-going ships, or of home-trade passenger ships, or who wish to procure certificates of competency hereinafter mentioned; and, subject as herein mentioned, the local marine boards shall provide for the examinations at their respective ports, and may appoint and from time to time remove and re-appoint examiners to conduct the same, and may regulate the same; and any members of the local marine board of the place where the examination is held may be present and assist at any such examination.

Examinations to be instituted for masters and mates.

131*a*. Whereas it is expedient to make provision in certain cases for holding examinations of applicants for certificates of competency at places where there are no local marine boards; be it enacted that the Board of Trade, if satisfied that serious inconvenience exists at any port in consequence of the distance which applicants for certificates have to travel in order to be examined, may, with the concurrence of any local marine board, send the examiner or examiners of that local marine board to the port where such inconvenience exists; and thereupon the said examiner or examiners shall proceed to such port and shall there examine the applicants in the presence of such person or persons (if any) as the Board of Trade may appoint for the purpose; and such examinations shall be conducted in the same manner and shall have the same effect as other examinations under the said Act.—[The Merchant Shipping Act Amendment Act, 25 & 26 Vic., c. 63, s. 17.]

Examinations of applicants for certificates at ports where there are no local marine boards.

131*b*. Examinations shall be instituted for persons who intend to become masters or mates of foreign-going ships or of home-trade ships of a burden exceeding three hundred tons, or who wish to procure certificates of competency hereinafter mentioned.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 9.]

Examinations for certificates of competency.

131*c*. The Local Government may from time to time make, alter, add to or repeal, rules for the examination of, and the granting of certificates to, commanders of inland steam-vessels: Provided that the first rules under this Act shall be published in the *Calcutta Gazette* at least two months before they take effect.—[Inland Steam Vessels—Ben. Act VII of 1879, s. 2.]

Local Government may make rules for examination of commanders.

132. The Board of Trade may from time to time lay down rules as to the conduct of such examinations, and as to the qualifications of the applicants,

Powers of Board of Trade as examinations.

Examinations and Certificates of Masters and Mates.

and such rules shall be strictly adhered to by all examiners; and no examiner shall be appointed unless he possesses a certificate of qualification, to be from time to time granted or renewed by the Board of Trade; and the sanction of the Board of Trade shall be necessary, so far as regards the number of examiners to be appointed, and the amount of their remuneration; and the Board of Trade may at any time depute any of its officers to be present and assist at any examination; and if it appears to the Board of Trade that the examinations for any two or more ports can be conducted without inconvenience by the same examiners, it may require and authorise the local marine boards of such ports to act together as one board in providing for and regulating examinations and appointing and removing examiners for such ports.

Fees to be paid by applicants for examination.

133. All applicants for examination shall pay such fees, not exceeding the sums specified in the table marked R in the schedule hereto, as the Board of Trade directs; and such fees shall be paid to such persons as the said Board appoints for that purpose.

TABLE R. (See Section 133.)

Fees to be charged on Examinations.

	£.	s.	d.
For a certificate as master	2	0	0
For a certificate as mate	1	0	0

Local Government to appoint examiners.

Rules for conduct of examination.

Fees.

133a. The Local Government or any board or officer duly authorised by the Local Government in that behalf shall from time to time nominate two or more competent persons for the purpose of examining the qualifications of the applicants for examination. The Local Government may, with the sanction of the Governor General of India in Council, make rules for the conduct of such examinations and as to the qualifications to be required; and such rules shall be strictly adhered to by all examiners. [Fees at such rates as the Local Government may from time to time with the previous sanction of the Governor General in Council fix in this behalf shall be paid by all applicants for examination.[1]]—[Merchant Seamen's Act, 1859—Act I of 1859, s. 10.]

Certificates of competency to be granted to those who pass.

134. Subject to the proviso hereinafter contained, the Board of Trade shall deliver to every applicant who is duly reported by the local examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct on boardship, a certificate (hereinafter called a "certificate of competency") to the effect that he is competent to act as master, or as first, second, or only mate of a foreign-going ship, or as master or mate of a home-trade passenger ship, as the case may be: provided that, in every case in which the Board of Trade has reason to believe such report to have been unduly made, such Board may remit the case either to the same or to any other examiners, and may

[1] Act V of 1883, s. 34.

require a re-examination of the applicant, or a future inquiry into his testimonials and character, before granting him a certificate.

Examinations and Certificates of Masters and Mates.

Certificates of competency.

134*a*. The Local Government or such board or officer as aforesaid shall deliver to every applicant who is reported by the examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct on boardship, a certificate (hereinafter called a "certificate of competency") to the effect that he is competent to act as master or mate of a foreign-going ship or of a home-trade ship of a burden exceeding three hundred tons, as the case may be: [provided that the Local Government may, in any case in which it has reason to believe that such report has been unduly made, require, before granting certificate, a re-examination of the applicant or a further enquiry into his testimonials and character.[1]]—[Merchant Seamen's Act, 1859—Act I of 1859, s. 11.]

Certificates of service to be delivered to persons who served as masters or mates before 1851, and to certain naval officers; and certificates of service for home-trade passenger ships to be delivered to persons who have served as masters or mates in such ships before 1st January 1854.

135. Certificates of service, differing in form from certificates of competency, shall be granted as follows (that is to say)—

(1) Every person who before the first day of January one thousand eight hundred and fifty-one served as master in the British merchant service, or who has attained or attains the rank of lieutenant, master, passed mate, or second mate, or any higher rank, in the service of Her Majesty or of the East India Company, shall be entitled to a certificate of service as master for foreign-going ships:

(2) Every person who before the first day of January one thousand eight hundred and fifty-one served as mate in the British merchant service shall be entitled to a certificate of service as mate for foreign-going ships:

(3) Every person who before the first day of January one thousand eight hundred and fifty-four has served as master of a home-trade passenger ship shall be entitled to a certificate of service as master for home-trade passenger ships:

(4) Every person who before the first day of January one thousand eight hundred and fifty-four has served as mate of a home-trade passenger ship shall be entitled to a certificate of service as mate for home-trade passenger ships:

And each of such certificates of service shall contain particulars of the name, place and time of birth, and of the length and nature of the previous service of the person to whom the same is delivered; and the Board of Trade shall deliver such certificates of service to the various persons so respectively entitled thereto, upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

[1] Act V of 1883, s. 35.

Examinations and Certificates of Masters and Mates.

Certificates of service.

135*a*. Certificates of service differing in form from certificates of competency shall be granted as follows (that is to say)—

(1) Every person who before the passing of this Act has served as master in the British merchant service or as master of any foreign-going ship registered under Act X of 1841, or who has attained or shall attain the rank of lieutenant, master, passed mate, or second mate, or any higher rank, in the service of Her Majesty or of the East India Company, shall be entitled to a certificate of service as master for foreign-going ships.

(2) Every person who before the passing of this Act has served as mate in the British merchant service or as mate of any such ship as aforesaid shall be entitled to a certificate of service as mate for foreign-going ships.

(3) Every person who before the passing of this Act has served as master or mate of a home-trade ship of a burden exceeding three hundred tons shall be entitled to a certificate of service as master or mate (according to such previous service) for such home-trade ships.

And each of such certificates of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is delivered; and the Local Government or such other authority as aforesaid shall deliver such certificates of service to the various persons so respectively entitled thereto upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 12.]

No foreign-going ship or home-trade passenger ship to proceed to sea without certificates of the master and mates.

136. No foreign-going ship or home-trade passenger ship shall go to sea from any port in the United Kingdom unless the master thereof, and in the case of a foreign-going ship the first and second mates or only mate (as the case may be), and in the case of a home-trade passenger ship the first or only mate (as the case may be), have obtained and possess valid certificates either of competency of service appropriate to their several stations in such ship, or of a higher grade; and no such ship, if of one hundred tons burden or upwards, shall go to sea as aforesaid unless at least one officer besides the master has obtained and possesses a valid certificate appropriate to the grade of only mate therein, or to a higher grade; and every person who, having been engaged to serve as master or as first or second or only mate of any foreign-going ship, or as master or first or only mate of a home-trade passenger ship, goes to sea as aforesaid as such master or mate without being at the time entitled to and possessed of such a certificate as hereinbefore required, or who employs any person as master, or first, second, or only mate of any foreign-going ship, or as master or first or only mate of a home-trade passenger ship, without ascertaining that he is at the time entitled to and possessed

of such certificate, shall for each such offence incur a penalty not exceeding fifty pounds.

Examinations and Certificates of Masters and Mates.

136*a*. No foreign-going ship or home-trade ship of a burden exceeding three hundred tons shall go to sea from any port in India unless the master and one officer besides the master have obtained and possess valid and appropriate certificates either of competency or service under this Act or under the Merchant Shipping Act, 1854; and whoever, having been engaged to serve as master or mate, goes to sea as aforesaid as such master or mate without being at the time entitled to and possessed of such a certificate as hereinbefore required, and whoever employs any person as such master or mate without ascertaining that he is at the time entitled to and possessed of such certificate, shall for each such offence be liable to a penalty of five hundred rupees.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 13.]

No foreign-going ship and no home-trade ship above 300 tons to go to sea without certificated master, &c.

137. Every certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home-trade passenger ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last-mentioned ship; but no certificate for a home-trade passenger ship shall entitle the holder to go to sea as master or mate of a foreign-going ship.

Certificates for foreign-going ships available for home-trade passenger ships.

137*a*. Every certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last mentioned ship; but no certificate for a home-trade ship shall entitle the holder to go to sea as master or mate of a foreign-going ship.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 14.]

Certificates for foreign-going ships available for home-trade ships.

138. All certificates,[1] whether of competency or service, shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded by the Registrar General of Seamen or by such other person as the Board of Trade appoints for that purpose; and the Board of Trade shall give to such registrar or such other person immediate notice of all orders made by it for cancelling, suspending, altering, or otherwise affecting any certificate in pursuance of the powers herein contained; and the registrar or such other person as aforesaid shall thereupon make a corresponding entry in the record of certificates; and a copy purporting to be certified by such registrar or his assistant or by such person as aforesaid of any certificate shall be *primâ facie* evidence of such certificate, and a copy purporting to be so certified as aforesaid of any entry made as aforesaid in respect of any certificate shall be *primâ facie* evidence of the truth of the matters stated in such entry.

The registrar to record grants, cancellations, &c., of certificates.

Duplicates and entries to be evidence.

138*a*. All certificates, whether of competency or service, shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded as the Local Government shall

Record of grants, cancellations, &c., of certificates.

[1] See s. 140*r*.

Regulations and Certificates of Masters and Mates.

direct. A note of all orders made for cancelling, suspending, altering, or otherwise affecting any certificate in pursuance of the powers herein contained, shall be entered in the record of certificates.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 15.]

In case of loss a copy to be granted.

139. Whenever any master or mate [or engineer[1]] proves to the satisfaction of the Board of Trade that he has, without fault on his part, lost or been deprived of any certificate already granted to him, the Board of Trade shall, upon payment of such fee (if any) as it directs, cause a copy of the certificate to which by the record so kept as aforesaid he appears to be entitled to be made out and certified as aforesaid, and to be delivered to him; and any copy which purports to be so made and certified as aforesaid shall have all the effect of the original.

Loss of certificate.

139*a*. Whenever any master or mate proves to the satisfaction of the Local Government or such other authority as aforesaid that he has, without fault on his part, lost or been deprived of any certificate already granted to him, a copy of the certificate to which by the record so kept as aforesaid he appears to be entitled, shall be delivered to him, and shall have all the effect of the original.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 16.]

Provisions as to examinations, &c., of masters, not to apply to certain ships.

139*b*. Sections 9 to 16[2] (both inclusive) of Act I of 1859 shall not apply to ships registered under Act X of 1841 and trading between ports in India and the coasts of Arabia, when such ships are navigated and manned exclusively by Arabs, lascars or other Asiatic masters and seamen.—[Indian Merchant Shipping Act, 1883, s. 37.]

Commanders to have certificates.

139*c*. Every inland steam-vessel shall be commanded by a person holding a certificate duly in force under the said rules.[3]—[Inland Steamers—Ben: Act VII of 1879, s. 3.]

Penalty on owner if vessel is commanded by improperly commander.

139*d*. If any such vessel is not so commanded, the owner thereof shall be liable, on conviction before a magistrate, to a fine not exceeding one thousand rupees; and such fine may from time to time be re-imposed on the said owner after the expiration of one month from the last previous conviction, so long as the provisions of section 3 are not complied with in respect of such vessel.—[Inland Steamers—Ben: Act VII of 1879, s. 4.]

Commander deemed pilot under Indian Ports Act.

139*e*. A commander of any inland steam-vessel who holds a certificate duly in force under the said rules[3] shall be deemed to be a pilot in respect of such vessel for the purposes of section 38 of the Indian Ports Act, 1875.[4]—[Inland Steamers—Ben: Act VII of 1879, s. 5.]

Proceeding to enforce penalty when to be taken.

139*f*. No proceeding shall be taken against any person for the recovery of a penalty under this Act before such day as the Lieutenant-Governor may fix by notification in the *Calcutta Gazette*.—[Inland Steamers—Ben: Act VII of 1879, s. 6.]

[1] See s. 140*r*.

[2] See ss. 133*b*, 132*a*, 134*a*, 135*a*, 136*a*, 137*a*, 138*a*, and 139*a*.

[3] See s. 131*c*.

[4] See s. 330*f*.

140. Every person who makes, or procures to be made, or assists in making, any false representation for the purpose of obtaining for himself or for any other person a certificate[1] either of competency or service, or who forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such certificate or any official copy of any such certificate, or who fraudulently makes use of any such certificate or any copy of any such certificate which is forged, altered, cancelled, suspended, to which he is not justly entitled, or who fraudulently lends his certificate to or allows the same to be used by any other person, shall for each offence be deemed guilty of a misdemeanor.

Examinations and Certificates of Masters and Mates.

Penalties for false representations, forging or altering or fraudulently using or lending certificates.

Examinations and Certificates of Engineers.

Examinations and Certificates of Engineers.

140*a*. On and after the first day of June one thousand eight hundred and sixty-three, every steam-ship which is required by the principal Act to have a master possessing a certificate from the Board of Trade shall also have an engineer or engineers possessing a certificate or certificates from the Board of Trade as follows (that is to say)—

Steam ships to carry certificated engineers.

(1) Engineers' certificates shall be of two grades, *viz.*, "first-class engineers' certificates" and "second-class engineers' certificates":

(2) Every foreign-going steam-ship of one hundred nominal horse-power or upwards shall have as its first and second engineer's two certificated engineers, the first possessing a "first-class engineer's certificate," and the second possessing a "second-class engineer's certificate" or a certificate of the higher grade:

(3) Every foreign-going steam ship of less than one hundred nominal horse-power shall have as its only or first engineer an engineer possessing a "second-class engineer's certificate" or a certificate of the higher grade:

(4) Every sea-going home trade passenger ship shall have as its only or first engineer an engineer possessing a "second-class engineer's certificate" or a certificate of the higher grade.

(5) Every person who, having been engaged to serve in any of the above capacities in any such steam-ship as aforesaid, goes to sea in that capacity without being at the time entitled to and possessed of such certificate as is required by this section, and every person who employs any person in any of the above capacities in such ship without ascertaining that he is at the time entitled to and possessed of such certificate as is required by this section, shall for each such offence incur a penalty not exceeding fifty pounds.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 5.]

140*b*. The Board of Trade shall from time to time cause examinations to be held of persons who may be desirous of obtaining certificates of competency.

Examinations for engineers' certificates of competency.

[1] See s. 140*r*.

Examinations and Certificates of Engineers.

tency as engineers: For the purpose of such examinations the Board of Trade shall from time to time appoint and remove examiners, and award the remuneration to be paid to them; lay down rules as to the qualification of applicants, and as to the times and places of examination; and generally do all such acts as it thinks expedient in order to carry into effect the examination of such engineers as aforesaid.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 6.]

Examinations to be instituted for engineers.

140*c*. Examinations shall be instituted for persons who intend to become engineers of steamers, or who wish to procure certificates of competency hereinafter mentioned.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 16.]

Examinations for engineers' certificates of competency.

140*d*. Examinations shall be instituted for persons who intend to become engineers of steamers or who wish to procure certificates of competency hereinafter mentioned.—[Steam-boat Survey Amendment Act, 1868—Ben: Act I of 1868, s. 7.]

Examinations for engineers' certificates of competency.

140*e*. Examinations shall be instituted for persons who intend to become engineers of steamers, or who wish to procure certificates of competency as hereinafter mentioned.—[The Steam-vessel Survey Amendment Act—Bom: Act IV of 1873, s. 14.]

Fees to be paid by applicants for examination.

140*f*. All applicants for examination shall pay such fees, not exceeding the sums specified in the table marked (B) in the schedule hereto, as the Board of Trade directs; and such fees shall be paid to such persons as the said Board appoints for that purpose, and shall be carried to the account of the Mercantile Marine Fund.

TABLE (B). (See Section 7.)

Fees to be chargeable on examination of engineers.

	£
For a first class engineer's certificate	2
For a second class engineer's certificate	1

[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 7.]

Examiners and rules of examination.

140*g*. The Chief Commissioner shall, from time to time, nominate two or more competent persons for the purpose of examining the qualifications of the applicants for examination, and may make rules for the conduct of such examinations, and as to the qualifications to be required, and the fees to be paid by all applicants for examination.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 17.]

Examiners and rules of examination to be provided.

140*h*. The Lieutenant-Governor, or any Board or officer duly authorised by him in that behalf, shall, from time to time, nominate two or more competent persons for the purpose of examining the qualifications of the applicants for examination, and may make rules for the conduct of such examinations, and as to the qualifications to be required, and the fees to be paid by all applicants

for examination.[1]—[Steam-boat Survey Amendment Act, 1868—Ben: Act I of 1868, s. 8.]

Examinations and Certificates of Engineers.

140*i*. The Governor of Bombay shall, from time to time, nominate one or more competent persons for the purpose of examining the qualifications of applicants for examination, and may make rules, which shall be published in the Government Gazette, for the conduct of such examination, and as to the qualifications to be required and the fees to be paid by all applicants for examination.[2]—[The Steam-vessel Survey Amendment Act, 1873—Bom: Act IV of 1873, s. 15.]

Examiners and rules of examination to be provided.

140*j*. The Board of Trade shall deliver to every applicant who is duly reported to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, and ability, a certificate of competency, as first-class engineer, or as second-class engineer, as the case may be.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic. c. 63, s. 8.]

Certificates of competency to be granted to persons who pass.

140*k*. The Chief Commissioner shall deliver to every applicant who is reported by the examiners to have passed the examination satisfactorily, a certificate (hereinafter called a certificate of competency) to the effect that he is competent to act as engineer.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 18.]

Certificate of competency.

140*l*. The Lieutenant-Governor, or such Board or officer as aforesaid, shall deliver to every applicant who is reported by the examiners to have passed the examination satisfactorily, a certificate (hereinafter called a "certificate of competency") to the effect that he is competent to act as engineer.—[Survey of Steamers—Ben: Act I of 1868, s. 9.]

Certificates of competency to be given.

140*m*. Every applicant who is reported by the examiners to have passed the examination satisfactorily, shall receive a certificate of competency to the effect that he is competent to act as engineer, signed by the examiners and countersigned by a Secretary to Government.—[The Steam-vessel Survey Amendment Act, 1873—Bom: Act IV of 1873, s. 16.]

Certificate of competency to be given.

140*n*. Certificates of service for engineers, differing in form from certificates of competency, shall be granted as follows (that is to say)—

Engineer's certificates of service to be delivered on proof of certain service.

(1) Every person who before the first day of April one thousand eight hundred and sixty-two has served as first engineer in any foreign-going steam-ship of one hundred nominal horse-power or upwards, or who has attained or attains the rank of engineer in the service of Her Majesty or of the East India Company, shall be entitled to a "first-class engineer's certificate" of service:

(2) Every person who before the first day of April one thousand eight hundred and sixty-two has served as second engineer in any foreign-going steam-ship of one hundred nominal horse-power or upwards, or as first or only engineer in any other steam-ship, or who has

[1] See *Calcutta Gazette*, 12th September 1877, Part I, p. 1242.

[2] See *Bom. Government Gazette*, 14th May 1874, p. 413; 26th October 1876, p. 974.

Examination and Certificates of Engineers.

attained or attains the rank of first-class assistant engineer in the service of Her Majesty, shall be entitled to a "second-class engineer's certificate" of service:

Each of such certificates of service shall contain particulars of the name, place and time of birth, and the length and nature of the previous service of the person to whom the same is delivered, and the Board of Trade shall deliver such certificates of services to the various persons so respectively entitled thereto upon their proving themselves to have attained such rank, or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 9.]

Certificates of service.

140*o*. Every person who, before the passing of this Act, has served for a period of not less than one year as first or only engineer in any steam-vessel, or who has attained or shall attain the rank of first-class assistant engineer in the service of Her Majesty, shall be entitled to a certificate of service.

Each of such certificates of service shall contain particulars of the name, and of the length and nature of the previous service of the person to whom it is delivered.

And the Chief Commissioner shall deliver such certificates of service to the various persons so respectively entitled thereto, upon their proving themselves to have attained such rank, or to have served as aforesaid; and upon their giving a full and satisfactory account of the particulars aforesaid and on payment of such fees as the Chief Commissioner shall, by an order published in the Local Official Gazette, from time to time direct.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 19.]

Certificates of service to be given.

140*p*. Every person who, before the passing of this Act, has served for a period of not less than one year as first or only engineer in any steam-vessel, or who has attained or shall attain the rank of first-class assistant engineer in the service of Her Majesty, shall be entitled to a certificate of service.

Each of such certificates of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is delivered, and the Lieutenant-Governor, or such other authority as aforesaid, shall deliver such certificates of service to the various persons so respectively entitled thereto, upon their proving themselves to have attained such rank, or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid, and on payment of such fees as the Lieutenant-Governor shall, by an order published in the *Calcutta Gazette*, from time to time direct.—[Steam-boat Survey Amendment Act, 1868—Ben. Act I of 1868, s. 10.]

Certificates of Service to be given.

140*q*. Every person who shall satisfy the examiners that before the passing of this Act he has served for a period of not less than one year as first or only engineer in any steam-vessel, or who has attained or shall attain the rank of first-class assistant engineer in the service of Her Majesty, shall

be entitled to a certificate of competency.—[The Steam-vessel Survey Amendment Act, 1873—Bom: Act IV of 1873, s. 17.]

Examinations and Certificates of Engineers.

Certain provisions of Merchant Shipping Act to apply to engineers' certificates.

140r. The provisions of the principal Act, with respect to the certificates of competency or service of master and mates, contained in the 138th, 139th, 140th, 161st, and 162nd sections of the said Act, shall apply to certificates of competency or service granted under this Act in the same manner as if certificates of competency and service to be granted to engineers under this Act were specially mentioned and included in the said sections.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 10.]

Colonial certificates to masters, mates, and engineers.

140s. Where the legislature of any British possession provides for the examination of, and grant of certificates of competency to, persons intending to act as masters, mates, or engineers on board British ships, and the Board of Trade reports to Her Majesty that they are satisfied that the examinations are so conducted as to be equally efficient as the examinations for the same purpose in the United Kingdom under the Acts relating to merchant shipping, and that the certificates are granted on such principles as to show the like qualifications and competency as those granted under the said Acts, and are liable to be forfeited for the like reasons and in the like manner, it shall be lawful for Her Majesty, by Order in Council,

(1) To declare that the said certificates shall be of the same force as if they had been granted under the said Acts:

(2) To declare that all or any of the provisions of the said Acts which relate to certificates of competency granted under those Acts shall apply to the certificates referred to in the said order:

(3) To impose such conditions and to make such regulations with respect to the said certificates, and to the use, issue, delivery, cancellation, and suspension thereof, as to Her Majesty may seem fit, and to impose penalties not exceeding fifty pounds for the breach of such conditions and regulations.

Upon the publication in the *London Gazette* of any such Order in Council as last aforesaid, the provisions therein contained shall, from a date to be mentioned for the purpose in such order, take effect as if they had been contained in this Act.

It shall be lawful for Her Majesty in Council to revoke any order made under this section.—[Merchant Shipping (Colonial) Act, 1869, 32 & 33 Vic., c. 11, s. 8.]

No certificate of survey if vessel has not a certificated engineer.

140t. No certificate of survey under this Act shall be granted for any steam-vessel, unless it has as its engineer an engineer possessing a certificate of competency or a certificate of service.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 20.]

No certificate of survey if vessel has no certificated engineer.

140u. No certificate of survey under the said Act, V of 1862, or of this Act, shall be granted for any steam-vessel, unless it shall have as its engineer an engineer possessing a certificate of competency or a certificate of service.—[Steam-boat Survey Amendment Act, 1868—Ben: Act I of 1868, s. 11.]

Examinations and Certificates of Engineers.

Penalty for plying without certificated engineer.

140*v*. The owner, and also the master, of any steam-vessel subject to this Act, which shall ply on any of the rivers or waters in the Provinces subject to the Lieutenant-Governor of Bengal, without having in charge of the engines thereof an engineer possessing a certificate of service or a certificate of competency, shall be liable to a fine not exceeding five hundred rupees.—[Steam-boat Survey Amendment Act, 1868—Ben: Act I of 1868, s. 12.]

No clearance if vessel has not a certificated engineer.

140*w*. No clearance shall be granted for any steam-vessel other than a steam-vessel holding a certificate granted by the British Board of Trade or by any British Indian Colonial Government, unless the master thereof shall satisfy the proper officer of the Customs that such steam-vessel has as its engineer an engineer possessing a certificate of competency.—[The Steam-vessel Survey Amendment Act, 1873—Bom: Act IV of 1873, s. 18.]

Penalty for plying without certificated engineer.

140*x*. The owner, and also the master, of any steam-vessel subject to this Act, which shall ply in any of the ports, harbours, rivers or waters of the Presidency of Bombay without having in charge of the engines thereof an engineer possessing a certificate of service or competency, shall be liable to a fine not exceeding five hundred rupees.—[The Steam-vessel Survey Amendment Act, 1873—Bom: Act IV of 1873, s. 19.]

Plying without certificated engineer.

140*y*. The owner, and also the master, of any steam-vessel subject to this Act, which plies on any of the rivers or waters in British Burma without having in charge of the engines thereof an engineer possessing a certificate of service or a certificate of competency, shall be liable to a fine not exceeding five hundred rupees.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 32.]

Power to exempt private steam-vessels.

140*z*. The Chief Commissioner may exempt from the operation of section 20 any steamer which does not ply with passengers or goods, or as a steam-tug for hire.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 21.]

Power to exempt private steam-vessels.

140 (*1a*). It shall be competent to the Lieutenant-Governor of Bengal to exempt from the operation of sections 11 and 12 any steamer which does not ply with passengers or goods, or as a steam-tug for hire.—[Survey of Steamers Act—Ben: Act I of 1868, s. 13.]

Power to exempt steam-vessels.

140 (*1b*). It shall be competent to the Governor-General in Council to exempt wholly or partially from the operation of this Act any steam-tugs, steam barges, or steam launches.—[The Steam-vessel Survey Amendment Act, 1873—Bom: Act IV of 1873, s. 20.]

Withdrawal of certificate.

140 (*1c*). It shall be lawful for the Chief Commissioner, in case of the misconduct, negligence, or incompetency of any engineer possessing a certificate of competency or a certificate of service, to cancel such certificate or to suspend the same for such time as to him or them seems fit.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 22.]

Withdrawal of certificate.

140 (*1d*). It shall be lawful for the Lieutenant-Governor, or such Board or authority as aforesaid, in case of the misconduct, negligence, or incompetency of any engineer possessing a certificate of competency or a certificate of service, to cancel such certificate or to suspend the same for such time as to him

or them seems fit.—[Steam-boat Survey Amendment Act, 1868—Ben: Act I of 1868, s. 14.]

Examinations and Certificates of Engineers.

Withdrawal of certificate.

140 (*Ie*). If by means of any inquiry conducted under the provisions of this Act the misconduct, negligence, or incompetency of any engineer possessing a certificate of competency is established to the satisfaction of the Governor in Council, it shall be lawful for the said Governor in Council to cancel such certificate, or to suspend the same for such time as to him shall seem fit. —[The Steam-vessel Survey Amendment Act, 1873—Bom: Act IV of 1873, s. 21.]

English certificates to be available.

140 (*If*). Every engineer's certificate of competency or service, which may be granted by any competent authority in the United Kingdom, shall have, in all respects, the same validity and effect as if the same had been granted under the provisions of this Act.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 23.]

English certificates to be available.

140 (*Ig*). Every engineer's certificate of competency or service, which may be granted by any competent authority in the United Kingdom, shall have, in all respects, the same validity and effect as if the same had been granted under the provisions of this Act.—[Steam-boat Survey Amendment Act, 1868—Ben: Act I of 1868, s. 15.]

Certificates to be made in duplicate.

140 (*Ih*). All certificates, whether of competency or service, shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded as the Chief Commissioner directs. A note of all orders made for cancelling, suspending, altering, or otherwise affecting any certificate in pursuance of the powers herein contained shall be entered in the record of certificates—[Burmese Steamer Survey Act—Act XVI of 1871, s. 24.]

Certificates to be made in duplicate.

140 (*Ii*). All certificates, whether of competency or service, shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded as the Lieutenant-Governor shall direct. A note of all orders made for cancelling, suspending, altering, or otherwise affecting any certificate in pursuance of the powers herein contained shall be entered in the record of certificates—[Steam-boat Survey Amendment Act, 1868—Ben: Act I of 1868, s. 16.]

Certificates to be made in duplicate.

140 (*Ij*). All certificates of competency shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded as the Governor in Council shall direct.

A note of all orders made for cancelling, suspending, altering, or otherwise affecting any certificate in pursuance of the powers herein contained shall be entered on the record of certificates.—[The Steam-vessel Survey Amendment Act, 1873—Bom: Act IV of 1873, s. 22.]

Copy of certificate to be delivered.

140 (*Ik*). Whenever any engineer proves to the satisfaction of the Chief Commissioner that he has, without fault on his part, lost or been deprived of any certificate already granted to him, a copy of the certificate, to which, by the record so kept as aforesaid, he appears to be entitled, shall be delivered

Examinations and Certificates of Engineers.

to him, and shall have all the effect of the original.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 25.]

Copy of lost certificate to be given.

140 (*l*). Whenever any engineer proves to the satisfaction of the Lieutenant-Governor, or of such other authority as aforesaid, that he has, without fault on his part, lost or been deprived of any certificate already granted to him, a copy of the certificate, to which, by the record so kept as aforesaid, he appears to be entitled, shall be delivered to him, and shall have all the effect of the original.—[Steam-boat Survey Amendment Act—Ben: Act I of 1868, s. 17.]

Copy of certificate to be delivered.

140 (*lm*). Whenever any engineer proves to the satisfaction of the Governor in Council that he has, without fault on his part, lost or been deprived of any certificate already granted to him, a copy of the certificate, to which, by the record so kept as aforesaid, he appears to be entitled, shall be delivered to him, and shall have all the effect of the original.—[The Steam-vessel Survey Amendment Act—Bom: Act IV of 1873, s. 23.]

Exemption from Part III.

140 (*ln*). The provisions of Part III (sections 14 to 23)[1] of this Act shall not apply to engineers holding certificates of competency or service granted by the Board of Trade under the provisions of 25 & 26 Vic., c. 63.—[The Steam-vessel Survey Amendment Act, 1873—Bom: Act IV of 1873, s. 2.]

Apprenticeships to the Sea Service.[2]

Apprenticeships to the Sea Service.

Shipping masters to assist in binding apprentices, and may receive fees.

141. All shipping masters appointed under this Act shall, if applied to for the purpose, give to any board of guardians, overseers, or other persons desirous of apprenticing boys to the sea service, and to masters and owners of ships requiring apprentices, such assistance as is in their power for facilitating the making of such apprenticeships, and may receive from persons availing themselves of such assistance such fees as may be determined in that behalf by the Board of Trade, with the concurrence, so far as relates to pauper apprentices in England, of the Poor Law Board in England, and so far as relates to pauper apprentices in Ireland, of the Poor Law Commissioners in Ireland.

Indentures of boys bound apprentices to sea service by guardians or overseers to be witnessed by two justices.

142. In the case of every boy bound apprentice to the sea service by any guardians or overseers of the poor, or other persons having the authority of guardians of the poor, the indentures shall be executed by the boy and the person to whom he is bound in the presence of and shall be attested by two justices of the peace, who shall ascertain that the boy has consented to be bound, and has attained the age of twelve years, and is of sufficient health and strength, and that the master to whom the boy is to be bound is a proper person for the purpose.

[1] See ss. 140*e*, 140*i*, 140*m*, 140*q*, 140*w*, 140*x*, 140*h*, 140*k*, 140*ij*, 140*lm*.

[2] In Part III. ss. 141, 142, 143, 144, 149, 163, 164, 166, 167, 171, 172, 173, 243, 269, of 17 and 18 Vic., c. 104, are repealed, as far as those sections are applicable to fishing boats, by the Merchant Shipping (Fishing Boats) Act, 1883, 46 & 47 Vic., c. 41, s. 51.

142*a*. Any child above the age of ten, and under the age of eighteen, may be bound apprentice by his or her father or guardian to learn any fit trade, craft, or employment, for such term as is set forth in the contract of apprenticeship, not exceeding seven years, so that it be not prolonged beyond the time when such child shall be of the full age of twenty-one years, or in the case of a female, beyond the time of her marriage.—[Binding Apprentices—Act XIX of 1850, s. 1.]

Apprenticeship in the Sea Service.

Apprenticing child between 10 and 18 years old.

142*b*. The age set forth in the contracts shall be evidence of the age of the child, in all questions which arise as to the right of the master to the continuance of the service.—[Binding Apprentices—Act XIX of 1850, s. 2.]

Evidence of age in questions as to right to service.

142*c*. Any magistrate or justice of the peace may act with all the powers of a guardian under this Act, on behalf of any orphan, or poor child abandoned by its parents, or of any child convicted before him, or any other magistrate, of vagrancy, or the commission of any petty offence.—[Binding Apprentices—Act XIX of 1850, s. 3.]

Powers of magistrate or justice acting for orphans, &c.

142*d*. An orphan or poor child, brought up by any public charity, may be bound apprentice by the governors, directors or managers thereof, as his or her guardians for this purpose.—[Binding Apprentices—Act XIX of 1850, s. 4.]

Apprenticing of child brought up by public charity.

142*e*. Any such boy may be bound as an apprentice in the sea service to any of Her Majesty's subjects, being the owner of any registered ship belonging to and trading from any port in the territories under the Government of India, which has been declared to be a registering port under Act X, 1841, to be employed in any such ship the property of such person, commanded by a British subject, and, while so employed, to be taught the craft and duty of a seaman.[1]—[Binding Apprentices—Act XIX of 1850, s. 5.]

Apprenticing of such boy in sea service.

142*f*. The master or commander of any ship in which an apprentice bound to the sea service shall be appointed to serve by the party to whom he is bound, shall be deemed the agent of such party for the purpose of this Act.—[Binding Apprentices—Act XIX of 1850, s. 7.]

Who to be agent of master of apprentice serving in ship.

143. All indentures of apprenticeship to the sea service shall be exempt from stamp duty; and all such indentures shall be in duplicate; and every person to whom any boy whatever is bound as an apprentice to the sea service in the United Kingdom shall, within seven days after the execution of the indentures, take or transmit the same to the Registrar General of Seamen, or to some shipping master; and the said registrar or shipping master shall retain, and record one copy, and shall indorse on the other that the same has been recorded, and shall re-deliver the same to the master of the apprentice; and whenever any such indenture is assigned or cancelled, and whenever any such apprentice dies or deserts, the master of the apprentice shall, within seven days after such assignment, cancellation, death, or desertion, if the same happens within the United Kingdom, or if the same happens elsewhere, so soon afterwards as circumstances permit, notify the same either to the said

Indentures of apprenticeship to be exempt from stamp duty, and to be recorded.

[1] See s. 124*a*.

Apprenticeships to the Sea Service.

Registrar of Seamen, or to some shipping master, to be recorded; and every person who fails to comply with the provisions of this section shall incur a penalty not exceeding ten pounds.[1]

Form and contents of contract of apprenticeship.

143*a*. Every contract of apprenticeship shall be in writing, according to the form given in the schedule (A) annexed to this Act, or to the like effect, which shall set forth the conditions agreed upon particularly specifying the age of the apprentice, the term for which he is bound, and what he is to be taught.

SCHEDULE A.

FORM OF AGREEMENT.

This Agreement made the day of in the year between *A.B.*, of and *C.D.*, of witnesseth that the said *A.B.* doth this day bind *E.F.*, a boy of the age of years completed, son of the said *A.B.* (or otherwise describing the relation in which *A.B.* and *E.F.* stand) to dwell with and serve the said *C.D.*, as an apprentice, from this day forth for years during all which term the said apprentice shall duly and faithfully serve the said *C.D.*, according to his skill and ability in all lawful business, and demean and behave himself honestly, orderly, and obediently, in all things toward the said *C.D.* and his family. And the said *C.D.* for himself and his executors and administrators, in consideration (of the premium or sum of paid by the said *A.B.* to the said *C.D.*, the receipt whereof the said *C.D.* hereby acknowledges, and) of the faithful service of the said *E.F.*, doth covenant and agree with the said *A.B.*, his executors and administrators, that he will teach or cause to be taught to the said *E.F.*, in the best way and manner that he can, the trade (craft or employment) of a during the said term; and will also, during the said term, find and allow unto the said apprentice good wholesome and sufficient food, clothes, lodging, washing, and all other things necessary, fit and reasonable for an apprentice: (and further, *here insert any special covenant*).

If there is no premium the words between brackets may be omitted.

In witness whereof the parties have hereunto set their hands and seals, the day and year above written.

A. B. (S. L.)
C. D. (S. L.)

[Binding Apprentices—Act XIX of 1850, s. 8.]

Signatures to contract.

143*b*. Every such contract shall be signed by the person to whom the apprentice is bound, and by the person by whom he is bound, and by the apprentice, when he is of the age of fourteen years or more at the time of binding; but when the apprentice is bound by the governors, directors or managers of a public charity, the signature of two of them, or of their secretary or officer, shall be sufficient on behalf of the persons binding the apprentice.—[Binding Apprentices—Act XIX of 1850, s. 9.]

Contract not valid unless executed as prescribed and deposited.

143*c*. No such contract shall be valid unless it be executed in the manner aforesaid, nor until it has been deposited in the office of the chief magistrate of the place or district where it has been executed, or if the apprentice is bound to the sea service, in the office of the person appointed under Act X, 1841, to make registry of ships at the port where the apprentice is to begin

[1] See note to heading "Apprenticeships to the Sea Service."

his service; and the person in whose office any such contract is deposited shall give to each of the parties a copy thereof, certified under his hand, which certified copies shall be received as evidence of the contract, without formal proof of the handwriting of the magistrate or registering officer.—[Binding Apprentices—Act XIX of 1850, s. 10.]

Apprenticeships to the Sea Service.

144. Subject to the provisions hereinbefore contained, all apprenticeships to the sea service made by any guardians or overseers of the poor, or persons having the authority of guardians of the poor, shall, if made in Great Britain, be made in the same manner and be subject to the same laws and regulations as other apprenticeships made by the same persons, and if made in Ireland shall be subject to the following rules (that is to say)—

Rules to govern apprenticeship of paupers in Great Britain and Ireland respectively.

(1) In every union the guardians of the poor, or other persons duly appointed to carry into execution the Acts for the relief of the destitute poor, and having the authority of guardians of the poor, may put out and bind as an apprentice to the sea service any boy who or whose parent or parents is or are receiving relief in such union, and who has attained the age of twelve years, and is of sufficient health and strength, and who consents to be so bound:

(2) If the cost of relieving any such boy is chargeable to an electoral division of a union, then (except in cases in which paid officers act in place of guardians) he shall not be bound as aforesaid unless the consent in writing of the guardians of such electoral division or of a majority of the guardians (if more than one) be first obtained, such consent to be, when possible, indorsed upon the indentures:

(3) The expense incurred in the binding and outfit of any such apprentice shall be charged to the union or electoral division (as the case may be) to which the boy or his parent or parents is or are chargeable at the time of his being apprenticed:

(4) All indentures made in any union may be sued upon by the guardians of the union or persons having the authority of guardians therein for the time being, by their name of office, and actions brought by them upon such indentures shall not abate by reason of death or change in the persons holding the office; but no such action shall be commenced without the consent of the Irish Poor Law Commissioners:

(5) The amount of the costs incurred in any such action, and not recovered from the defendant therein, may be charged upon the union or electoral division (as the case may be) to which the boy or his parent or parents was or were chargeable at the time of his being apprenticed.[1]

Apprentices and their indentures to be brought before shipping master before each voyage in a

145. The master of every foreign-going ship shall, before carrying any apprentice to sea from any place in the United Kingdom, cause such appren-

[1] See note to heading "Apprenticeships to the Sea Service."

Apprentices to be registered.

Indentures to be registered.

tice to appear before the shipping master before whom the crew is engaged, and shall produce to him the indenture by which such apprentice is bound, and the assignment or assignments thereof (if any); and the name of such apprentice, with the date of the indenture, and of the assignment or assignments thereof (if any), and the name of the port or ports at which the same have been registered, shall be entered on the agreement; and for any default in obeying the provisions of this section the master shall for each offence incur a penalty not exceeding five pounds.

Alteration of terms of service and termination of contract.

145*a*. The terms of service may be changed at any time during the apprenticeship, or the contract may be determined, with the consent of both parties to the contract or their personal representatives, and with the consent of the apprentice, if he is above the age of fourteen years; provided that the changes agreed to or the termination of the contract shall be expressed in writing on the original contract, with the signature of the proper parties according to section 8 of this Act; and the magistrate or registering officer shall thereupon make under his hand corresponding endorsements on the office copies, which shall be brought to him at the same time for that purpose.—[Binding Apprentices—Act XIX of 1850, s. 11.]

Assignment of apprentice to new master.

145*b*. The master of any apprentice bound under this Act may, with the consent of the person by whom he was bound, and with the consent of the apprentice, if he is above the age of fourteen years, assign such apprentice to any other person, who is willing to take him for the residue of his apprenticeship, and subject to the conditions thereof; provided that such person shall, by endorsement under his own hand on the contract, declare his acceptance of such apprentice, and acknowledge himself bound by the agreements and covenants therein mentioned, to be performed on the part of the master, and that the consent of the other parties aforesaid shall be expressed in writing on the same, and signed by them respectively: And every such assignment shall be certified on the office copies of the contract under the hand of the magistrate or registering officer according to the form given in schedule (B) annexed to this Act.

SCHEDULE B.

Form of Order of Assignment.

(To be endorsed on the Agreement.)

Be it known to all men that on the * day of in the year , *C. D.*, of personally appeared before *G. H.*, Magistrate of with *E. F.*, his apprentice, and *J. K.*, of and desired that the agreement of apprenticeship, whereby the said *E. F.* was bound to the said *C. D.*, might be assigned and made over to the said *J. K.*, and the said *G. H.* having satisfied himself, by personal examination of the said *E. F.*, and by other lawful ways and means, that such assignment is for the benefit of the said *E. F.*, and is made with the consent of (the said *E. F.*, and of) all persons whose consent thereunto by law is required, doth

* *If E. F. is not above the age of fourteen years, the words between brackets may be omitted.*

allow such assignment; and the contract of apprenticeship whereby the said *E. F.* was on the day of in the year bound to the said *C. D.*, as an apprentice to learn the trade (craft or employment) of a shall henceforth endure unto the end of the said term, as if the said *J. K.* had been originally party to the said deed, and had executed the same, in the place and stead of the said *C. D.*, and shall be bound, for himself his executors or administrators, to fulfil the covenants by the said *C. D.* to be performed; and the said *E. F.* shall henceforth be bound unto the said *J. K.*, in like manner as he was by the said agreement bound unto the said *C. D.*

Apprenticeship to the Sea Service.

C. D. *E. F.* *J. K.*

In witness whereof the said *C. D.*, *E. F.* and *J. K.* have hereunto set their hands before me the day and year above written.

G. H., Magistrate.

[Binding Apprentices—Act XIX of 1850, s. 12.]

145c. Upon complaint made to any magistrate in the said territories,[1] by or on behalf of any apprentice bound under this Act, of refusal or neglect to provide for him, or to teach him according to the contract of apprenticeship, or of cruelty, or other ill-treatment by his master or by the agent under whom he shall have been placed by his master, the magistrate may summon the master or his agent, as the case may be, if he shall be within his jurisdiction, to appear before him at a reasonable time, to be stated in the summons, to answer the complaint; and at such time, whether the master or his agent be present or not (service of the summons being proved), may examine into the matter of the complaint; and, upon proof thereof, may cancel the contract of apprenticeship, and assess upon the offender, whether he shall be the master or his agent, a reasonable sum for behoof of the apprentice.—[Binding Apprentices—Act XIX of 1850, s. 13.]

Powers of magistrate in case of complaint by apprentice against master.

145d. No contract of apprenticeship shall be cancelled, nor shall any master or his agent be liable to any criminal proceeding, on account of such moderate chastisement for misbehaviour, given to any apprentice by his master or the agent of his master, as may lawfully be given by a father to his child; and the provision for enabling the contract of apprenticeship to be cancelled shall not bar any criminal proceeding against any master or his agent for an assault or other offence committed against his apprentice, for which he would be liable to be punished, had it been against his child; whether or not any proceedings be taken for cancelling the contract of apprenticeship.—[Binding Apprentices—Act XIX of 1850, s. 14.]

Power of master or his agent to chastise apprentice.

Liability of master or agent for assault, &c.

145e. Upon complaint made to any magistrate, by or on behalf of the master of any apprentice bound to him under this Act, of any ill-behaviour of such apprentice, or if such apprentice shall have absconded, the magistrate may issue his warrant for apprehending such apprentice, and may hear and determine the complaint, and punish the offender by an order for keeping the offender, if a boy, in confinement in any debtor's prison or other suitable

Power of magistrate in case of complaint by master against apprentice.

[1] See s. 142e.

Apprenticeship in the Ken Settlement.

place, not being a criminal gaol, for any time not exceeding one month, of which one week may be in solitary confinement, during which time such allowance shall be made for his subsistence by the master or his agent as the magistrate shall order; and, if the offender be a boy of not more than fourteen years of age, may order him to be privately whipped: or, if the offender be a girl, or in the case of any boy, the magistrate deem any such punishment unfit, he may pass an order empowering the master of the apprentice or his agent to keep the offender in close confinement in his own house, or on board the vessel to which he belongs, upon bread and water, or such other plain food as may be given without injury to the health of the apprentice, for a period not exceeding one month.—[Binding Apprentices—Act XIX of 1850, s. 15.]

Cancellment of contract for misconduct of apprentice.

145*f*. Upon complaint of wilful and repeated ill-behaviour on the part of the apprentice, and on the demand of the master, the magistrate may order the contract of apprenticeship to be cancelled, whether or not the charge is proved; but only with the consent of the apprentice and of his father or guardian, if the charge is not proved: and such cancelling shall be with or without refund of the whole or part of any premium that may have been paid to the master on binding such apprentice, as to the magistrate seems fit on consideration of the case; and all the sums so refunded shall be applied under the direction of the magistrate for behalf of the apprentice.—[Binding Apprentices—Act XIX of 1850, s. 16.]

Appropriation of sum recovered for misconduct on cancellment of contract.

145*g*. The magistrate may order any sum recovered for behoof of the apprentice on cancelling the contract to be either laid out in binding him to another master, or otherwise for his benefit, or to be paid to the person by whom any premium was paid when he was bound apprentice.—[Binding Apprentices—Act XIX of 1850, s. 17.]

Limitation of complaint of master against apprentice;

145*h*. No magistrate shall entertain a complaint on the part of a master against an apprentice under this Act, unless it be brought within one month after the cause of complaint arose; or, if the cause of complaint arose on boardship during a voyage, within one month after the arrival thereof at a port or place in the said territories: and no magistrate shall entertain a complaint on the part of an apprentice against his master or the agent of his master under this Act, unless it be brought within three months after the cause of complaint arose; or if the cause of complaint arose on boardship during a voyage within three months after the arrival thereof at a port or place in the said territories.—[Binding Apprentices—Act XIX of 1850, s. 18.]

of apprentice against master.

Effect of death of master during apprenticeship.

145*i*. If the master of any apprentice shall die before the end of the apprenticeship, the contract of apprenticeship shall be thereby determined; and a proportionate part, corresponding to the unexpired portion of the term, of any premium, which shall have been paid to such master on the binding of the apprentice to him, shall be returned by the executors or administrators out of the estate of the deceased to the person or persons who shall have paid

the same; unless the executors or administrators of the deceased master shall continue the business in which such apprentice shall have been employed, and shall, within three months from the death of the late master, make offer in writing to keep the apprentice on the terms of the original contract; in which case the estate of the deceased shall be discharged from all liabilities on account of such premium.—[Binding Apprentices—Act XIX of 1850, s. 19.]

Apprenticeships to the Sea Service.

Offer by representative of master to continue terms of original contract.

145*j*. If such offer to keep the apprentice shall be made as aforesaid, the same shall be fully expressed and certified by the executors or administrators on the original contract of apprenticeship; and also on the office-copies thereof, by the magistrate or registering officer; and the apprentice shall be bound to the executors or administrators so keeping him for the remaining term of his apprenticeship.—[Binding Apprentices—Act XIX of 1850, s. 20.]

Offer to be certified on original contract and copies.

145*k*. Any apprentice bound under this Act, whose master shall die during the apprenticeship, shall be entitled to maintenance for three months from and after the death of his master, out of the assets left by him; provided that during such three months such apprentice shall continue to live with, and serve as an apprentice, the executors or administrators of such master, or such person as they shall appoint.—[Binding Apprentices—Act XIX of 1850, s. 21.]

Maintenance of apprentice whose master dies.

Apprentice to continue to serve.

145*l*. The apprentice of any person against whom a commission of bankruptcy shall be issued, or who shall be adjudged to have committed an act of insolvency, during the apprenticeship, shall be discharged from all obligation under the contract of apprenticeship; and, if any premium was paid on binding him as an apprentice, he or the person by whom he was bound shall be entitled to claim the amount thereof, as a debt against the estate of the bankrupt or insolvent—[Binding Apprentices—Act XIX of 1850, s. 22.]

Effect of insolvency of master during apprenticeship.

145*m*. For the purposes of this Act all British subjects, wherever or of whatever parents born, as well as other persons in the territories under the Government of India, without the towns of Calcutta and Madras and the town and Island of Bombay, shall be amenable to the jurisdiction of the courts and magistrates of India.—[Binding Apprentices—Act XIX of 1850, s. 23.]

Persons amenable to jurisdiction of magistrates' courts.

145*n*. An appeal shall lie from any order passed by any magistrate without the said towns and island to the court of session to which such magistrate is subordinate, provided the appeal is made within one month from the date of the order.—[Binding Apprentices—Act XIX of 1850, s. 24.]

Appeal from order of mofussil magistrates.

145*o*. In this Act the words "master," "owner," "person," and the pronoun "he" shall be understood to include several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless there is something in the context repugnant to such construction. —[Binding Apprentices—Act XIX of 1850, s. 25.]

Interpretation of terms.

Apprenticeship to the Sea Service.

Extension to seamen of 38 & 39 Vict. c. 90.

145*p*. The thirteenth section of the Employers and Workmen Act, 1875, shall be repealed in so far as it operates to exclude seamen and apprentices to the sea service from the said Act, and the said Act shall apply to seamen and apprentices to the sea service accordingly; but such repeal shall not, in the absence of any enactment to the contrary, extend to or affect any provision contained in any other Act of Parliament passed, or to be passed, whereby workman is defined by reference to the persons to whom the Employers and Workmen Act, 1875, applies.—[Merchant Seamen's (Payment of Wages and Rating) Act, 43 & 44 Vic., c. 16, s. 11.]

Masters of British ships compelled to give passage to distressed apprentices,—see s. 212.

Penalty for receiving a fee for shipping apprentice,—see s. 148.

Master if leaving apprentice behind on ground of unfitness shall pay wages of apprentice,—see ss. 207 and 209.

Power to make rules for distressed apprentices, 213a.

Offences by apprentices, and their punishment,—see ss. 243 and 243a.

Penalty for harbouring deserting apprentices,—see ss. 257b and 257c.

Engagement of Seamen.

Engagement of Seamen.

Board of Trade may license persons to engage seamen.

146. The Board of Trade may grant to such persons as it thinks fit licenses to engage or supply seamen or apprentices for merchant ships in the United Kingdom, to continue for such periods, to be upon such terms, and to be revocable upon such conditions, as such Board thinks proper.

Licenses to persons abroad.

146*a*. The Local Government, or any Board or officer duly authorised by the Local Government in that behalf, may grant to such persons as may be deemed fit licenses to engage or supply seamen for merchant ships, to continue for such periods, to be upon such terms, and to be revocable upon such conditions as the Government thinks proper.—[Merchant Seamen's Act, 1859—Act 1 of 1859, s. 18.]

Penalties.

147. The following offences shall be punishable as hereinafter mentioned (that is to say)—

For supplying seamen without license.

(1) If any person not licensed as aforesaid, other than the owner or master or mate of the ship, or some person who is *bonâ fide* the servant and in the constant employ of the owner, or a shipping master duly appointed as aforesaid, engages or supplies any seaman or apprentice to be entered on board any ship in the United Kingdom, he shall for each seaman or apprentice so engaged or supplied incur a penalty not exceeding twenty pounds;

For employing unlicensed persons.

(2) If any person employs any unlicensed person, other than persons so excepted as aforesaid, for the purpose of engaging or supplying any seaman or apprentice to be entered on board any ship in the United Kingdom, he shall for each seaman or apprentice so engaged

or supplied incur a penalty not exceeding twenty pounds, and if licensed shall in addition forfeit his license:— *Engagement of Seamen.*

(3) If any person knowingly receives or accepts to be entered on board any ship any seaman or apprentice who has been engaged or supplied contrary to the provisions of this Act, he shall for every seaman or apprentice so engaged or supplied incur a penalty not exceeding twenty pounds. *For receiving seamen illegally supplied.*

147*a*. The following offences shall be punished as hereinafter mentioned (that is to say)— *Penalty.*

(1) If any person not licensed as aforesaid, other than the owner or master or mate of the ship, or some person who is *bonâ fide* the servant and in the constant employ of the owner, or a shipping master duly appointed as aforesaid, engages or supplies any seaman to be entered on board any ship, he shall for each seaman so engaged or supplied incur a penalty not exceeding one hundred rupees. *For supplying seamen without license.*

(2) If any person employs any unlicensed person, other than persons so excepted as aforesaid, for the purpose of engaging or supplying any seaman to be entered on board any ship, he shall for each seaman so engaged or supplied incur a penalty not exceeding one hundred rupees, and, if licensed, shall in addition forfeit his license. *For employing unlicensed persons.*

(3) If any person knowingly receives or accepts to be entered on board any ship any seaman who has been engaged or supplied contrary to the provisions of this Act, he shall for every seaman so engaged or supplied incur a penalty not exceeding one hundred rupees.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 19.] *For receiving seamen illegally supplied.*

148. If any person demands or receives, either directly or indirectly, from any seaman or apprentice, or from any person seeking employment as a seaman or apprentice, or from any person on his behalf, any remuneration whatever, other than the fees hereby authorised, for providing him with employment, he shall for every such offence incur a penalty not exceeding five pounds. *Penalty for receiving remuneration from seamen for shipping them.*

148*a*. If any person demands or receives, either directly or indirectly, from any seaman, or from any person seeking employment as a seaman, or from any person on his behalf, any remuneration whatever, other than the fees hereby authorised, for providing him with employment, he shall for every such offence incur a penalty not exceeding fifty rupees, and, if licensed as aforesaid, shall in addition forfeit his license.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 20.] *Penalty for receiving remuneration from seamen for shipping them.*

149. The master of every ship, except ships of less than eighty tons registered tonnage exclusively employed in trading between different ports on the coasts of the United Kingdom, shall enter into an agreement with every seaman whom he carries to sea from any port in the United Kingdom as one of his crew, in the manner hereinafter mentioned; and every such agreement shall be in a form sanctioned by the Board of Trade, and shall be dated at the time of the first signature thereof, and shall be signed by the master before *Agreements to be made with seamen, containing certain specifications.*

Engagement of Seamen.

any seaman signs the same, and shall contain the following particulars as terms thereof (that is to say)—

(1) The nature, and, as far as practicable, the duration, of the intended voyage or engagement:

(2) The number and description of the crew, specifying how many are engaged as sailors:

(3) The time at which each seaman is to be on board or to begin work:

(4) The capacity in which each seaman is to serve:

(5) The amount of wages which each seaman is to receive:

(6) A scale of the provisions which are to be furnished to each seaman:

(7) Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by the Board of Trade as regulations proper to be adopted, and which the parties agree to adopt:

And every such agreement shall be so framed as to admit of stipulations, to be adopted at the will of the master and seaman in each case, as to advance and allotment of wages, and may contain any other stipulations which are not contrary to law: Provided that if the master of any ship belonging to any British possession has an agreement with his crew made in due form according to the law of the possession to which such ship belongs, or in which her crew were engaged, and engages singl eseamen in the United Kingdom, such seamen may sign the agreement so made, and it shall not be necessary for them to sign an agreement in the form sanctioned by the Board of Trade.[1]

Proviso as to forms for colonial ships.

Agreements with seamen.

149*a*. Any agreement with a seaman made under section one hundred and forty-nine of the Merchant Shipping Act, 1854, may, instead of stating the nature and duration of the intended voyage or engagement as by that section required, state the maximum period of the voyage or engagement, and the places or parts of the world (if any) to which the voyage or engagement is not to extend.—[Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 7.]

Masters to enter into agreements with seamen.

149*b*. The master of every ship, except ships of a burden not exceeding three hundred tons employed only in the home trade, shall enter into an agreement with every seaman whom he engages in, and carries to sea from, any port in British India as one of his crew, in the manner hereinafter mentioned.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 26.][2]

Form and contents of agreement.

149*c*. (*1*) Every such agreement shall be in a form sanctioned by the Governor General in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof (that is to say)—

(*a*) either the nature and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the

[1] See note to heading "Apprenticeship to Sea Service."

[2] Sections 149*b* to 149*f* are to be read together with Act I of 1859.

voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend; Engagement Seamen.

(b) the number and description of the crew, specifying how many are engaged as sailors;

(c) the time at which each seaman is to be on board or to begin work;

(d) the capacity in which each seaman is to serve;

(e) the amount of wages which each seaman is to receive;

(f) a scale of the provisions which are to be furnished to each seaman; and

(g) any regulations as to conduct on board, and as to fines, short allowance of provisions or other lawful punishments for misconduct, which have been sanctioned by the Governor General in Council as regulations proper to be adopted, and which the parties agree to adopt.

(2) Every such agreement shall be so framed as to admit of stipulations to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of any enactment for the time being in force relating to Merchant Shipping), as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 27.]

149*d*. (1) In the case of such agreements with lascars[1] or other native seamen, the scale of the provisions agreed to be furnished to each of such seamen shall not be less than a scale to be, from time to time, fixed and published by the Local Government with the previous sanction of the Governor General in Council. Scale of provisions to be furnished to lascars.

(2) Any master entering into an agreement with any lascar or other native seaman for a scale of provisions less than the scale so fixed and published shall be punished with fine which may extend to two hundred rupees.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 28.]

149*e*. (1) Whenever it is agreed that the service of any lascar or other native seaman shall end at any port not in British India, the agreement shall, in addition to the particulars specified in section twenty-seven, contain a stipulation that fit employment shall be provided for him on board some other ship bound to the port at which he was shipped, or such other port in British India as may be agreed on; or Stipulation where lascars are shipped.

that a passage shall be provided for him to some port in British India free of charge, or on such other terms as may be agreed on.

(2) Every such stipulation shall be signed by the owner of the ship, by the master on his behalf.

[1] For power to make certain contracts with Lascars, see ss. 544, 544*a*, 544*b*.

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(3) In this section the word "seaman" shall include also any native of British India carried to sea from any port in British India as one of the crew of a ship.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 29.]

Form for British or Colonial ships.

149*f*. If the master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew, made in due form according to the law of the place to which the ship belongs, or in which her crew were engaged, and engages a single seaman, not being a lascar or other native seaman, in any port in British India, the seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Act.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 30.]

For foreign-going ships such agreements, when made in the United Kingdom, except in special cases, to be made before and attested by a shipping master; to be in duplicate; provision for substitutes.

150. In the case of all foreign-going ships, in whatever part of Her Majesty's dominions the same are registered, the following rules shall be observed with respect to agreements (that is to say)—

(1) Every agreement made in the United Kingdom (except in such cases of agreements with substitutes as are hereinafter specially provided for) shall be signed by each seaman in the presence of a shipping master:

(2) Such shipping master shall cause the agreement to be read over and explained to each seaman, or otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature:

(3) When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the shipping master, and the other part shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship, and shall be delivered to the master:

(4) In the case of substitutes engaged in the place of seamen who have duly signed the agreement, and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion, or other unforeseen cause, the engagement shall, when practicable, be made before some shipping master, duly appointed in the manner hereinbefore specified; and whenever such last-mentioned engagement cannot be so made, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the seamen; and the seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures.

Rules as to agreements, in case of foreign-going ships.

Agreement to be signed by seaman.

150*a*. In the case of all foreign-going ships, in whatever part of Her Majesty's dominions the same are registered, the following rules shall be observed with respect to agreements (that is to say)—

(1) Every agreement made in any port in India (except in such cases of agreements with substitutes as are hereafter specially provided for) shall be signed by each seaman in the presence of a shipping master.

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(2) Such shipping master shall cause the agreement to be read over and explained to each seaman in a language understood by him, or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature.

Shipping-master to cause agreement to be explained to seaman.

(3) When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the shipping master, and the other part shall contain a special place or form for the descriptions and the signatures of substitutes or persons engaged subsequently to the first departure of the ship, and shall be delivered to the master.

To be in duplicate.

(4) In the case of substitutes engaged in the place of seamen who have duly signed the agreement, and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion, or other unforeseen cause, the engagement shall, when practicable, be made before some shipping master duly appointed in the manner hereinbefore specified; and whenever such last-mentioned engagement cannot be so made, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the seamen; and the seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 22.]

Provision for substitutes.

150*b*. When the master of a foreign ship being at any port in India engages any lascar or other native seaman to proceed to any port out of India, he shall enter into an agreement with such seaman, and the agreement shall be made before a shipping master in the manner hereinbefore provided for the making of agreements in the case of foreign-going ships, and all the provisions of sections 21[1] and 22 of this Act, respecting the form of such agreements and the stipulations to be contained in them and the making and signing of the same, shall be applicable to the engagement of such seaman; and the master of such foreign ship shall give to the shipping master a bond with the security of some approved person resident in India for an amount calculated at the rate of one hundred rupees for every such seaman and conditioned for the due performance of the said agreement and stipulations.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 115.]

Engagements between master of foreign ships and lascars or native seamen.

150*c*. If any lascar or other native seaman is engaged by the master of any foreign ship otherwise than is allowed in the two last preceding sections,[2] such master shall be liable to a penalty of one hundred rupees for every such seaman so engaged. It shall be lawful for the shipping master, by himself or his deputy, to enter on board any foreign ship upon which he shall have reason to believe that any such seaman has been shipped, and the provisions of section 30[3] of this Act shall be applicable in respect of every such ship.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 117.]

Penalty for master of foreign ship illegally engaging native seaman.

Power to board suspected ship.

[1] Repealed by Act XV of 1863.

[2] See ss. 126*b* and 150*b*.

[3] See s. 100*a*.

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Foreign-going ships making short voyages may have running agreements.

151. In the case of foreign-going ships making voyages averaging less than six months in duration, running agreements with the crew may be made to extend over two or more voyages, so that no such agreement shall extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her port of destination in the United Kingdom after such date, or the discharge of cargo consequent upon such arrival; and every person entering into such agreement, whether engaged upon the first commencement thereof or otherwise, shall enter into and sign the same in the manner hereby required for other foreign-going ships; and every person engaged thereunder, if discharged in the United Kingdom, shall be discharged in the manner hereby required for the discharge of seamen belonging to other foreign-going ships.

Foreign-going ships making short voyages may have running agreements.

151*a*. In the case of foreign-going ships making voyages averaging less than six months in duration, running agreements with the crew may be made to extend over two or more voyages, so that no such agreement shall extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her port of destination in India after such date, or the discharge of cargo consequent upon such arrival; and every person entering into such agreement, whether engaged upon the first commencement thereof or otherwise, shall enter into and sign the same in the manner hereby required for other foreign-going ships; and every person engaged thereunder, if discharged in any port in India, shall be discharged in the manner hereby required for the discharge of seamen belonging to other foreign-going ships.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 23.]

Engagement and discharge of seamen in the meantime.

152. The master of every foreign-going ship for which such a running agreement as aforesaid is made shall, upon every return to any port in the United Kingdom before the final termination of the agreement, discharge or engage before the shipping master at such port any seaman whom he is required by law so to discharge or engage, and shall upon every such return endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship again leaves port, or that all such discharges or engagements have been duly made as hereinbefore required, and shall deliver the agreement so endorsed to the shipping master; and any master who wilfully makes a false statement in such endorsement shall incur a penalty not exceeding twenty pounds; and the shipping master shall also sign an endorsement on the agreement to the effect that the provisions of this Act relating to such agreement have been complied with, and shall re-deliver the agreement so endorsed to the master.

Engagement and discharge of seamen in the meantime.

152*a*. The master of every foreign-going ship for which such a running agreement as aforesaid is made shall, upon every return to any port in India before the final termination of the agreement, discharge or engage before the shipping master at such port any seaman whom he is required by law so to

discharge or engage; and shall upon every such return endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship again leaves port, or that all such discharges or engagements have been duly made as hereinbefore required; and shall deliver the agreement so endorsed to the shipping master: *Engagement of Seamen.*

and any master who wilfully makes a false statement in such endorsement shall incur a penalty not exceeding two hundred rupees;

and the shipping master shall also sign an endorsement on the agreement to the effect that the provisions of this Act relating to such agreement, have been complied with, and shall re-deliver the agreement so endorsed to the master.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 24.]

153. In cases in which such running agreements are made, the duplicate agreement retained by the shipping master upon the first engagement of the crew shall either be transmitted to the Registrar General of Seamen immediately, or be kept by the shipping master until the expiration of the agreement, as the Board of Trade directs. *Duplicates of running agreements, how to be dealt with.*

154. For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have running agreements as aforesaid, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen. *Fees to be paid on such running agreements.*

154*a*. For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have running agreements as aforesaid, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 25.] *Fees to be paid on such running agreements.*

155. In the case of home-trade ships, crews or single seamen may, if the master thinks fit, be engaged before a shipping master in the manner hereinbefore directed with respect to foreign-going ships; and in every case in which the engagement is not so made, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, who shall attest his signature. *In home-trade ships, agreements to be entered into before a shipping master or other witness.*

155*a*. In the case of home-trade ships of a burden exceeding three hundred tons, crews or single seamen may, if the master thinks fit, be engaged before a shipping master in the manner hereinbefore directed with respect to foreign-going ships; and in every case in which the engagement is not so made, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to *In home-trade ships agreement to be entered into before a shipping master or other witness.*

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each seaman, and the seaman, shall thereupon sign the same in the presence of a witness, who shall attest his signature.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 26.]

Special agreements for home-trade ships belonging to same owners.

156. In cases where several home-trade ships belong to the same owner, the agreement with the seamen may, notwithstanding anything herein contained, be made by the owner instead of by the master, and the seamen may be engaged to serve in any two or more of such ships, provided that the names of the ships and the nature of the service are specified in the agreement; but, with the foregoing exception, all provisions herein contained which relate to ordinary agreements for home-trade ships shall be applicable to agreements made in pursuance of this section.

Special agreements for home-trade ships belonging to same owner.

156*a*. In cases where several home-trade ships belong to the same owner, the agreement with the seamen may, notwithstanding anything herein contained, be made by the owner instead of by the master, and the seamen may be engaged to serve in any two or more of such ships, provided that the names of the ships and the nature of the service are specified in the agreement; but, with the foregoing exception, all provisions herein contained which relate to ordinary agreements for home-trade ships shall be applicable to agreements made in pursuance of this section.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 27.]

Engagement of native seamen.

156*b*. The Local Government, or such officer as it appoints in this behalf, may, by order in writing signed by its Secretary or by such officer, prohibit any person from engaging in the territories subject to the said Government, or in any specified portion of such territories, any Native of India to serve as a seaman on board any ship specified in such order; but in all such cases the reasons for the prohibition shall be stated in writing.

Whoever wilfully disobeys the prohibition contained in this section shall be liable to imprisonment for a term which may extend to three months, or to fine not exceeding one thousand rupees, or to both.—[Merchant Seamen's Act, 1876—Act XIII of 1876, s. 5.]

Penalty for shipping seamen without agreement duly executed.

157. If in any case a master carries any seaman to sea without entering into an agreement with him in the form and manner and at the place and time hereby in such case required, the master in the case of a foreign-going ship, and the master or owner in the case of a home-trade ship, shall for each such offence incur a penalty not exceeding five pounds.

Penalty for shipping seamen without agreement duly executed.

157*a*. If in any case a master carries any seaman to sea without entering into an agreement with him in the form and manner and at the place and time hereby in such case required, the master shall for each such offence incur a penalty not exceeding fifty rupees.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 28.]

Change in crew to be reported.

158. The master of every foreign-going ship of which the crew has been engaged before a shipping master shall, before finally leaving the United Kingdom, sign and send to the nearest shipping master a full and accurate statement, in a form sanctioned by the Board of Trade, of every change

which takes place in his crew before finally leaving the United Kingdom, and in default shall for each offence incur a penalty not exceeding five pounds; and such statement shall be admissible in evidence, subject to all just exceptions.

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158*a*. The master of every foreign-going ship, of which the crew has been engaged before a shipping master, shall, before finally leaving India, sign and send to the nearest shipping master a full and accurate statement, in a form sanctioned by the Governor General of India in Council, of every change which takes place in his crew before finally leaving India, and in default shall for each offence incur a penalty not exceeding fifty rupees; and such statement shall be admissible in evidence subject to all just exceptions.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 29.]

Changes in crew to be reported.

159. Every master of a ship who, if such ship is registered in the United Kingdom, engages any seaman in any British possession, or, if such ship belongs to any British possession, engages any seaman in any British possession other than that to which the ship belongs, shall, if there is at the place where such seaman is engaged any official shipping master or other officer duly appointed for the purpose of shipping seamen, engage such seaman before such shipping master, and if there is no such shipping master or officer, then before some officer of Customs; and the same rules, qualification, and penalties as are hereinbefore specified with respect to the engagement of seaman before shipping masters in the United Kingdom shall apply to such engagements in a British possession; and upon every such engagement such shipping master or officer as aforesaid shall endorse upon the agreement an attestation to the effect that the same has been signed in his presence, and otherwise made as hereby required; and if in any case such attestation is not made, the burden of proving that the seaman was duly engaged as hereby required shall lie upon the master.

Seamen engaged in the colonies to be shipped before some shipping master or officer of Customs.

160. Every master of a British ship who engages any seaman at any place out of Her Majesty's dominions in which there is a British Consular officer shall, before carrying such seaman to sea, procure the sanction of such officer and shall engage such seaman before such officer; and the same rules as are hereinbefore contained with respect to the engagement of seamen before shipping masters in the United Kingdom shall apply to such engagements made before Consular officers; and upon every such engagement the Consular officer shall endorse upon the agreement his sanction thereof, and an attestation to the effect that the same has been signed in his presence, and otherwise made as hereby required; and every master who engages any seaman in any place in which there is a Consular officer, otherwise than as hereinbefore required, shall incur a penalty not exceeding twenty pounds; and if in any case the endorsement and attestation hereby required is not made upon the agreement, the burden of proving the engagement to have been made as hereinbefore required shall lie upon the master.

Seamen engaged in foreign ports to be shipped with the sanction and in the presence of the Consul.

160*a*. For the purpose of preventing any seamen from being shipped at any port in India contrary to the provisions of this Act, the shipping master

To prevent infraction of act, shipping

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master may board vessels and muster seamen.

by himself or his deputy may enter at any time on board any ship upon which he shall have reason to believe that seamen have been shipped, and may muster and examine the several seamen employed therein; and any person who shall obstruct the said shipping master or deputy in such duty shall be liable to a penalty not exceeding one hundred rupees.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 30.]

Rules as to production of agreements and certificates of masters and mates of foreign-going ships.

161. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for foreign-going ships (that is to say)—

(1) The master of every foreign-going ship shall, on signing the agreement with his crew, produce to the shipping master before whom the same is signed the certificates of competency or service[1] which the said master, and his first and second mate, or only mate, as the case may be, are hereby required to possess; and upon such production being duly made, and the agreement being duly executed as hereby required, the shipping master shall sign and give to the master a certificate to that effect:

(2) In the case of running agreements for foreign-going ships the shipping master shall, before the second and every subsequent voyage made after the first commencement of the agreement, sign and give to the master, on his complying with the provisions herein contained with respect to such agreements, and producing to the shipping master the certificate of competency or service of any first, second, or only mate then first engaged by him, a certificate to that effect:

(3) The master of every foreign-going ship shall, before proceeding to sea, produce the certificate so to be given to him by the shipping master as aforesaid to the collector or comptroller of Customs, and no officer of Customs shall clear any such ship outwards without such production; and if any such ship attempts to go to sea without a clearance, any such officer may detain her until such certificate as aforesaid is produced:

(4) The master of every foreign-going ship shall within forty-eight hours after the ship's arrival at her final port of destination in the United Kingdom, or upon the discharge of the crew, whichever first happens, deliver such agreement to a shipping master at the place; and such shipping master shall thereupon give to the master a certificate of such delivery; and no officer of Customs shall clear any foreign-going ship inwards without the production of such certificate:

And if the master of any foreign-going ship fails to deliver the agreement to a shipping master at the time and in the manner hereby directed, he shall for every default incur a penalty not exceeding five pounds.

[1] See s. 140.

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Production of agreements and certificates in case of foreign-going ships.

161*a*. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for foreign-going ships (that is to say)—

(1) The master of every foreign-going ship shall, on signing the agreement with his crew, produce to the shipping master before whom the same is signed, the certificates of competency or service which the said master and his mate are hereby required to possess; and upon such production being duly made, and the agreement being duly executed as hereby required, the shipping master shall sign and give to the master a certificate to that effect:

(2) In the case of running agreements for foreign-going ships, the shipping master shall, before the second and every subsequent voyage made after the first commencement of the agreement, sign and give to the master, on his complying with the provisions herein contained with respect to such agreements, and producing to the shipping master the certificate of competency or service of any mate then first engaged by him, certificate to that effect:

(3) The master of every foreign-going ship shall, before proceeding to sea, produce the certificate so to be given to him by the shipping master as aforesaid to the collector of customs, or if there be no collector of customs, to the officer whose duty it is to grant a port-clearance. No officer of customs or other officer shall clear any such ship outwards without such production; and if any such ship attempts to go to sea without a clearance, any such officer may detain her until such certificate as aforesaid is produced:

(4) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in India, or upon the discharge of the crew, whichever first happens, deliver such agreement to a shipping master at the place; and such shipping master shall thereupon give to the master a certificate of such delivery; and no officer of customs or other officer shall clear any foreign-going ship inwards without the production of such certificate:

And if the master of any foreign-going ship fails to deliver the agreement to a shipping master at the time and in the manner hereby directed, he shall for every default incur a penalty not exceeding fifty rupees.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 31.]

Rules as to production of agreements and certificates for home-trade ship.

162. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for home-trade ships (that is to say)—

(1) In the case of home-trade ships of more than eighty tons burden, no agreement shall extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her final port of destination in the United Kingdom after such date, or the discharge of cargo consequent upon such arrival;

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(2) The master or owner of every such ship shall within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year transmit or deliver to some shipping master in the United Kingdom every agreement made within the six calendar months next preceding such days respectively, and shall also in the case of home-trade passenger ships produce to the shipping master the certificates of competency or service which the said master, and his first or only mate, as the case may be, are hereby required to possess.

(3) The shipping master shall thereupon give to the master or owner a certificate of such delivery and production; and no officer of customs shall grant a clearance or transire for any such ship as last aforesaid without the production of such certificate; and if any such ship attempts to ply or go to sea without such clearance or transire, any such officer may detain her until the said certificate is produced:

And if the agreement for any home-trade ship is not delivered or transmitted by the master or owner to a shipping master at the time and in the manner hereby directed, such master or owner shall for every default incur a penalty not exceeding five pounds.

Owner or agent of home-trade ships may enter into time agreements which need not expire half-yearly.

162*a*. The owner of home-trade ships or his agent may enter into time agreements, in forms to be sanctioned by the Board of Trade, with individual seamen to serve in any one or more ships belonging to him, which agreements need not expire on either the thirtieth day of June or the thirty-first day of December, anything in the Merchant Shipping Act to the contrary notwithstanding: Provided always that a duplicate of each agreement entered into under the provisions of the section be forwarded to the Registrar General of Shipping within forty-eight hours after it has been entered into.—[Merchant Shipping Act, 1872, 35 & 36 Vic., c. 73, s. 16.]

Rules as to production of agreements and certificates for home-trade ships.

162*b*. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for home-trade ships of a burden exceeding three hundred tons (that is to say)—

(1) No such agreement shall extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her final port of destination in India after such date, or the discharge of cargo consequent upon such arrival:

(2) The master or owner of every such ship shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or (if the ship is not at any port in India within twenty-one days after either the thirtieth day of June or the thirty-first day of December in any year) within forty-eight hours after her next arrival at any port in India, transmit or deliver to some shipping master in India every agreement made within the six calendar months next preceding such days respectively, and shall also produce

to the shipping master the certificates of competency or service which the said master and his mate are hereby required to possess: *Engagement of Seamen.*

(3) The shipping master shall thereupon give to the master or owner a certificate of such delivery and production; and no officer of customs or other officer authorised to grant a port-clearance shall grant a clearance for any such ship without the production of such certificate; and if any such ship attempts to go to sea without such clearance, any such officer may detain her until the said certificate is produced:

And if the agreement for any home-trade ship is not delivered or transmitted by the master or owner to a shipping master at the time and in the manner hereby directed, such master or owner shall for every default incur a penalty not exceeding fifty rupees.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 32.]

163. Every erasure, interlineation, or alteration in any such agreement with seamen as is required by the third part of this Act (except additions so made as hereinbefore directed for shipping substitutes or persons engaged subsequently to the first departure of the ship), shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation, or alteration, by the written attestation (if made in Her Majesty's dominions) of some shipping master, justice, officer of customs, or other public functionary, or (if made out of Her Majesty's dominions) of a British Consular officer, or, where there is no such officer, of two respectable British merchants.[1] *Alteration to be void, unless attested to have been made with the consent of all parties.*

163*a*. Every erasure, interlineation, or alteration in any such agreement with seamen as is required by this Act (except additions so made as hereinbefore directed for shipping substitutes or persons engaged subsequently to the first departure of the ship), shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation, or alteration, by the written attestation (if made in Her Majesty's dominions) of some shipping master, justice, officer of customs, or other public functionary, or (if made out of Her Majesty's dominions) of a British Consular officer, or where there is no such officer, of two respectable British merchants.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 33.] *Alterations to be void unless attested to have been made with the consent of all parties.*

164. Every person who fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, or makes, or assists in making, or procures to be made, any false entry in, or delivers, assists in delivering, or procures to be delivered, a false copy of any agreement,[2] shall for each such offence be deemed guilty of a misdemeanor. *Penalty for falsifying agreement.*

165. Any seaman may bring forward evidence to prove the contents of any agreement, or otherwise to support his case, without producing or giving notice to produce the agreement or any copy thereof. *Seamen not to be bound to produce agreement.*

[1] Repealed so far as the section is applicable to fishing boats by Merchant Shipping (Fishing Boats) Act 1883, 46 and 47 Vic., c. 41, s. 55.

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Copy of agreement to be made accessible to crew.

166. The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement[1] (omitting the signatures) to be placed or posted up in such part of the ship as to be accessible to the crew, and in default shall for each offence incur a penalty not exceeding five pounds.

Copy of agreement to be made accessible to crew.

166*a*. The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement, and, if necessary, a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew, and in default shall for each offence incur a penalty not exceeding fifty rupees.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 34.]

Seamen discharged before voyage to have compensation.

167. Any seaman who has signed an agreement,[1] and is afterwards discharged before the commencement of the voyage, or before one month's wages are earned, without fault on his part justifying such discharge, and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the court hearing the case deems satisfactory of his having been so improperly discharged as aforesaid, recover such compensation as if it were wages duly earned.[2]

Seamen discharged before voyage to have compensation.

167*a*. Any seaman who has signed an agreement, and is afterwards discharged before the commencement of the voyage, or before one month's wages are earned, without fault on his part justifying such discharge, and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the court or magistrate hearing the case deems satisfactory of his having been so improperly discharged as aforesaid, recover such compensation as if it were wages duly earned.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 35.]

Compensation to seaman for unnecessary detention on charge of desertion.

167*b*. If a seaman or apprentice belonging to any ship is detained on a charge of desertion or any kindred offence, and if upon a survey of the ship being made under section seven of the Merchant Shipping Act, 1871, it is proved that she is not in a fit condition to proceed to sea, or that her accommodation is insufficient, the owner or master of the ship shall be liable to pay to such seaman or apprentice such compensation for his detention as the court having cognizance of the proceedings may award.—[Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 9.]

Power of court to rescind contract between owner or master and seaman or apprentice.

167*c*. Where a proceeding is instituted in or before any court in relation to any dispute between an owner or master of a ship and a seaman or

[1] See note to s. 163.

[2] As to agreements with lascars, see 544 and 544*a*.

apprentice to the sea service, arising out of or incidental to their relation as such, or is instituted for the purpose of this section, the court, if, having regard to all the circumstances of the case, they think it just so to do, may rescind any contract between the owner or master and the seaman or apprentice, or any contract of apprenticeship, upon such terms as the court may think just, and this power shall be in addition to any other jurisdiction which the court can exercise independently of this section.

For the purposes of this section the term "court" includes any magistrate or justice having jurisdiction in the matter to which the proceeding relates.—[Merchant Seamen (Payment of Wages and Rating) Act, 1880, 43 & 44 Vic., c. 16, s. 8.]

Rating of seamen.

167*b*. A seaman shall not be entitled to the rating of A. B., that is to say of an able-bodied seaman, unless he has served at sea for four years before the mast, but the employment of fishermen in registered decked fishing vessels shall only count as sea service up to the period of three years of such employment; and the rating of A. B. shall only be granted after at least one year's sea service on a trading vessel in addition to three or more years sea service on board of registered decked fishing vessels.

Such service may be proved by certificates of discharge, by a certificate of service from the Registrar General of Shipping and Seamen (which certificate the Registrar shall grant on payment of a fee not exceeding sixpence), and in which shall be specified whether the service was rendered in whole or in part in steam ship or in sailing ship, or by other satisfactory proof.

Nothing in this section shall affect a seaman who has been rated and has served as A. B. before the passing of this Act.—[Merchant Seamen (Payment of Wages and Rating) Act, 1880, 43 & 44 Vic., c. 16, s. 7.]

Regulation of Advances.

Regulation of advances.

167*c*. No advance of wages shall be made or advance-note given to any person but the seaman himself; and no advance of wages shall be made or advance-note[1] given for any greater sum than the amount of one month's wages, nor unless the agreement contains a stipulation for the same and an accurate statement of the amount thereof, and no advance-note shall be given to any seaman who signs the agreement before a shipping master, unless in the presence of such shipping master.—[Merchant Seamen's Act, 1859—Act V of 1859, s. 26.]

Wages recoverable if advance made contrary to provisions.

167*d*. If any advance of wages is made or any advance-note given to any seaman in any such manner as to constitute a breach of any of the above provisions, the wages of such seaman shall be recoverable by him as if no such advance had been made or advance-note given, and in the case of any advance-note so given, no person shall be liable thereon under the provisions

[1] See McKear v. Ferguson, 5 C. B. N. S. 249.

Regulation of Advances.

hereinafter contained unless he was in person or by his agent a party to the irregular or improper manner of giving the same.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 37.]

Allotment of Wages.

Allotment of Wages.

Regulations as to allotment notes.

168. All stipulations for the allotment of any part of the wages of a seaman during his absence which are made at the commencement of the voyage shall be inserted in the agreement, and shall state the amounts and times of the payments to be made; and all allotment notes shall be in forms sanctioned by the Board of Trade.

Stipulations for allotment to be inserted in the agreement. Allotment notes.

168*a*. All stipulations for the allotment of any part of the wages of a seaman during his absence, which are made at the commencement of the voyage, shall be inserted in the agreement, and shall state the amounts and times of the payments to be made. All allotment notes shall be in forms sanctioned by the Local Government, and shall be made for the benefit only of a relative of the seaman or some member of his family to be named in the note, and shall be payable to the shipping master on account of such relative of the seaman or member of his family. Such allotment shall not in any case exceed one-third of the wages of the seaman.—[Merchant Seamen's Act, 1859—Act I of 1859 s. 38.]

Allotment notes may be sued on summarily by certain persons and under certain conditions.

169. The wife, or the father or mother, or the grandfather or gradmother, or any child or grandchild, or any brother or sister of any seaman in whose favour an allotment note of part of the wages of such seaman is made may, unless the seaman is shown in manner hereinafter mentioned to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid, and subject, as to the wife, to the provision hereinafter contained, sue for and recover the sums allotted by the note when and as the same are made payable, with costs, from the owner or any agent who has authorised the drawing of the note, either in the county court, or in the summary manner in which seamen are by this Act enabled to sue for and recover wages not exceeding fifty pounds; and in any such proceeding it shall be sufficient for the claimant to prove that he or she is the person mentioned in the note, and that the note was given by the owner or by the master or some other authorised agent; and the seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the court, either by the official statement of the change in the crew caused by his absence made and signed by the master, as by this Act is required, or by a duly certified copy of some entry in the official log-book to the effect that he has left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the court in its absolute discretion considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid: Provided that the wife of any seaman who deserts her children, or so misconducts herself as to be undeserving of support

from her husband, shall thereupon forfeit all right to further payments of any allotment of his wages which has been made in her favour. *Allotment of Wages.*

169*a*. The owner or any agent who has authorised the drawing of an allotment note shall pay to the shipping master on demand the sums allotted by the note, when and as the same are made payable, unless the seaman is shown in manner hereinafter mentioned to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid; and in the event of such sums not being paid to the shipping master on demand, the shipping master may sue for and recover them with costs. The seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the court or magistrate; either by the official statement of the change in the crew caused by his absence made and signed by the master, as by this Act is required, or by a duly certified copy of some entry in the official log-book to the effect that he has died or left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the court or magistrate trying the case considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.—[Merchant Seaman's Act, 1859—Act I of 1859, s. 39.]

Owner, &c., to pay to shipping master the sums allotted.

Suits on allotment notes.

Evidence.

169*b*. (1) Every agreement with a seaman which is required by the Merchant Shipping Act, 1854, to be made in the form sanctioned by the Board of Trade shall, if the seaman so require, stipulate for the allotment of any part not exceeding one-half of the wages of the seaman in favour of one or more of the persons mentioned in section one hundred and sixty-nine of the Merchant Shipping Act, 1854, as amended by this section.

Amendment of 17 & 18 Vic., c. 104, s. 169 as to allotment notes.

17 & 18 Vic., c. 104.

(2) The allotment may also be made in favour of a savings bank, and in that case shall be in favour of such persons and carried into effect in such manner as may be for the time being directed by regulations of the Board of Trade, and section one hundred and sixty-nine of the Merchant Shipping Act, 1854, shall be construed as if the said persons were named therein.

17 & 18 Vic., c. 104.

(3) The sum received in pursuance of such allotment by a savings bank shall be paid out only on an application made, through a superintendent of a mercantile marine office or the Board of Trade, by the seaman himself, or, in case of death, by some person to whom the same might be paid under section one hundred and ninety-nine of the Merchant Shipping Act, 1854.

17 & 18 Vic., c. 104.

(4) A payment under an allotment note shall begin at the expiration of one month, or, if the allotment is in favour of a savings bank, of three months, from the date of the agreement, or at such later date as may be fixed by the agreement, and shall be paid at the expiration of every subsequent month, or of such other periods as may be

Allotment of Wages.

fixed by the agreement, and shall be paid only in respect of wages earned before the date of payment.

(5) For the purposes of this section "savings bank" means a savings bank established under one of the Acts mentioned in the first schedule to this Act.—[Merchant Seamen (Payment of Wages and Rating) Act, 1880, 43 & 44 Vic., c. 16, s. 3.]

Receipts and payments by shipping master to be entered in allotment book.

169*c*. The shipping master, on receiving any such sum as aforesaid, shall pay it over to the person named in the allotment note. All such receipts and payments shall be entered in a book, and all entries in the said book shall be authenticated by the signature of the shipping master or his deputy; and the said book shall be at all times open to the inspection of the parties concerned.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 40.]

Discharge and Payment of Wages.

Discharge and Payment of Wages.

Discharge from foreign-going ships to be made before shipping master.

170. In the case of all British foreign-going ships, in whatever part of Her Majesty's dominions the same are registered, all seamen discharged in the United Kingdom shall be discharged and receive their wages in the presence of a shipping master duly appointed under this Act, except in cases where some competent court otherwise directs; and any master or owner of any such ship who discharges any seaman belonging thereto, or, except as aforesaid, pays his wages within the United Kingdom in any other manner, shall incur a penalty not exceeding ten pounds; and in the case of home-trade ships seamen may, if the owner or master so desires, be discharged and receive their wages in like manner.

Discharge from foreign-going ships to be made before shipping master.

170*d*. All seamen discharged from any foreign-going ship at any port in India in whatever part of Her Majesty's dominions the ship is registered, shall be discharged and receive their wages in the presence of a shipping master duly appointed under this Act, except in cases where some competent court otherwise directs; and any master or owner of any such ship who discharges any seaman belonging thereto, or except as aforesaid pays his wages in any other manner, shall incur a penalty not exceeding one hundred rupees; and in the case of home-trade ships of a burden exceeding three hundred tons, seamen may, if the owner or master so desires, be discharged and receive their wages in like manner.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 41.]

Master to deliver account of wages.

171. Every master shall, not less than twenty-four hours before paying off or discharging any seaman, deliver to him, or, if he is to be discharged before a shipping master, to such shipping master, a full and true account, in a form sanctioned by the Board of Trade, of his wages, and of all deductions to be made therefrom on any account whatever, and in default shall for each offence incur a penalty not exceeding five pounds; and no deduction from the wages of any seaman (except in respect of any matter happening after such delivery) shall be allowed unless it is included in the account so delivered;

and the master shall during the voyage enter the various matters in respect of which such deductions are made, with the amounts of the respective deductions, as they occur, in a book to be kept for that purpose, and shall, if required, produce such book at the time of the payment of wages, and also upon the hearing before any competent authority of any complaint or question relating to such payments.

Disclosure and Payment of Wages.

171*a*. Every master shall, not less than twenty-four hours before paying off or discharging any seaman, deliver to him, or, if he is to be discharged before a shipping master, to such shipping master, a full and true account, in a form sanctioned by the Local Government, of his wages and of all deductions to be made therefrom on any account whatever, and in default shall for each offence incur a penalty not exceeding fifty rupees; and no deduction from the wages of any seaman (except in respect of any matter happening after such delivery) shall be allowed unless it is included in the account so delivered; and the master shall during the voyage enter the various matters in respect of which such deductions are made, with the amounts of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce such book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to such payments.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 42.]

Master to deliver account of wages.

172. Upon the discharge of any seaman, or upon payment of his wages, the master shall sign and give him a certificate of his discharge, in a form sanctioned by the Board of Trade, specifying the period of his service and the time and place of his discharge; and if any master fails to sign and give to any such seaman such certificate of discharge, he shall for each such offence incur a penalty not exceeding ten pounds; and the master shall also upon the discharge of every certificated mate whose certificate of competency or service has been delivered to and retained by him return such certificate, and shall in default incur a penalty not exceeding twenty pounds.[1]

On discharge, master to give seamen certificates of discharge and return certificates of competency and service to mates.

172*a*. Upon the discharge of any seaman, or upon payment of his wages, the master shall sign and give him a certificate of his discharge, in a form sanctioned by the Local Government, specifying the period of his service and the time and place of his discharge; and if any master fails to sign and give to any such seaman such certificate of discharge, he shall for each such offence incur a penalty not exceeding one hundred rupees; and the master shall also upon the discharge of every certificated mate whose certificate of competency or service has been delivered to and retained by him, return such certificate and shall in default incur a penalty not exceeding two hundred rupees.—[Merchant Seamen's Act, 1859—Act I of 1859 s. 43.]

On discharge, master to give seamen certificates of discharge and return certificates of competency or service to mates.

173. Every shipping master shall hear and decide any question whatever between a master or owner and any of his crew which both parties agree in writing to submit to him; and every award so made by him shall be binding

Shipping-master may decide questions which parties refer to him.

[1] See note to s. 168.

Discharge and Payment of Wages.

on both parties, and shall in any legal proceeding which may be taken in the matter before any court of justice be deemed to be conclusive as to the rights of the parties; and no such submission or award shall require a stamp; and any document purporting to be such submission or award shall be *primâ facie* evidence thereof.[1]

Shipping-master may decide questions which parties refer to him.

173*a*. Every shipping master shall hear and decide any question whatever between a master or owner and any of his crew which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall in any legal proceeding which may be taken in the matter before any court or magistrate be deemed to be conclusive as to the rights of the parties; and any document purporting to be such submission or award shall be *primâ facie* evidence thereof. An award made by a shipping master under this section may be enforced by a magistrate in the same manner as an order for the payment of wages made by such magistrate under the provision of section 55[2].—[Merchant Seamen's Act, 1859—Act I of 1859, s. 44.]

How award may be enforced.

Master and others to produce ship's papers to shipping masters, and give evidence.

174. In any proceeding relating to the wages, claims, or discharge of any seaman carried on before any shipping master under the provisions of this Act, such shipping master may call upon the owner or his agent, or upon the master or any mate or other member of the crew, to produce any log books, papers, or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine any of such persons being then at or near the place on any such matter; and every owner, agent, master, mate, or other member of the crew who when called upon by the shipping master does not produce any such paper or document as aforesaid, if in his possession or power, or does not appear and give evidence, shall, unless he shows some reasonable excuse for such default, for each such offence incur a penalty not exceeding five pounds.[1]

Master and others to produce ship's papers to shipping masters, and give evidence.

174*a*. In any proceeding relating to the wages, claims, or discharge of any seaman carried on before any shipping master under the provisions of this Act, such shipping master may call upon the owner or his agent, or upon the master, or any mate or other member of the crew, to produce any log books, papers, or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine any of such persons being then at or near the place on any such matter; and every owner, agent, master, mate, or other member of the crew who, when called upon by the shipping master, does not produce any such paper or document as aforesaid if in his possession or power, or does not appear and give evidence, shall, unless he shows some reasonable excuse for such default, for each such offence incur a penalty not exceeding fifty rupees.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 45.]

[1] Sections 173, 174 are repealed as far as they are applicable to fishing boats, by Merchant Shipping (Fishing Boats) Act, 1883, 46 & 47 Vic., c. 41, s. 55.

[2] See s. 188*a*.

175. The following rules shall be observed with respect to the settlement of wages (that is to say)— *Discharge and Payment of Wages.*

Settlement of wages.

(1) Upon the completion before a shipping master of any discharge and settlement, the master or owner and each seaman shall respectively in the presence of the shipping master sign in a form sanctioned by the Board of Trade a mutual release of all claims in respect of the past voyage or engagement, and the shipping master shall also sign and attest it, and shall retain and transmit it as herein directed; *Release to be signed before and attested by the shipping master.*

(2) Such release so signed and attested shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement: *to be a discharge;*

(3) A copy of such release, certified under the hand of such shipping master to be a true copy, shall be given by him to any party thereto requiring the same; and such copy shall be receivable in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original of which it purports to be a copy: *and to be evidence.*

(4) In cases in which discharge and settlement before a shipping master are hereby required, no payment, receipt, settlement, or discharge otherwise made shall operate or be admitted as evidence of the release or satisfaction of any claim: *and other receipt to be no discharge.*

(5) Upon any payment being made by a master before a shipping master, the shipping master shall, if required, sign and give to such master a statement of the whole amount so paid; and such statement shall as between the master and his employer be received as evidence that he has made the payments therein mentioned. *Voucher to be given to master and to be evidence.*

175*a*. The following rules shall be observed with respect to the settlement of wages (that is to say)— *Settlement of wages.*

(1) Upon the completion before a shipping master of any discharge and settlement, the master or owner and each seaman shall respectively, in the presence of the shipping master, sign, in a form sanctioned by the Local Government, a mutual release of all claims in respect of the past voyage or engagement, and the shipping master shall also sign and attest the release and shall retain the same. *Release to be signed before and attested by the shipping master;*

(2) Such release so signed and attested shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement. *to be a discharge*

(3) A copy of such release, certified under the hand of such shipping master to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original of which it purports to be a copy. *and to be evidence.*

Discharge of seamen.

(4) In cases in which discharge and settlement before a shipping master are hereby required, no payment, receipt, settlement, or discharge otherwise made, shall operate or be admitted as evidence of the release or satisfaction of any claim.

Notice of discharge.

Certificate of payment to be evidence.

(5) Upon any payment being made by a master before a shipping master, the shipping master shall, if required, sign and give to such master a statement of the whole amount so paid, and such statement shall, as between the master and his employer, be received as evidence that he has made the payment therein mentioned.—[Merchant Seamen's Act, 1850—Act 1 of 1850, s. 46.]

Rights of seamen on discharge.

175*. In the case of foreign-going ships—

(1) The owner or master of the ship shall pay to each seaman on his discharge, at the time when he lawfully leaves the ship at the end of his engagement, two pounds, or one-fourth of the balance due to him, whichever is least; and shall pay him the remainder of his wages within two clear days (exclusive of any Sunday, Fast Day in Scotland, or Bank Holiday) after he so leaves the ship.

Payment of wages.

(2) The master of the ship may deliver the amount of wages mentioned in section one hundred and seventy-one of the Merchant Shipping Act, 1854, to the seaman himself at or before the time when he leaves the ship, instead of delivering it to a superintendent of a mercantile marine office.

Payment of wages.

(3) If the seaman consents, the final settlement of his wages may be left to the superintendent of a mercantile marine office under regulations to be made by the Board of Trade, and the receipt of the superintendent shall in that case operate as a release by the seaman under section one hundred and seventy-five of the Merchant Shipping Act, 1854.

Payment of wages.

(4) In the event of the seaman's wages or any part thereof not being paid or settled as in this section mentioned, then, unless the delay is due to the act or default of the seaman, or to any reasonable dispute as to liability, or to any other cause not being the act or default of the owner or master, the seaman's wages shall continue to run and be payable until the time of the final settlement thereof.

(5) Where a question as to wages is raised before the superintendent of a mercantile marine office between the master or owner of a ship, and a seaman or apprentice, if the amount in question does not exceed five pounds, the superintendent may adjudicate, and the decision of the superintendent in the matter shall be final; but if the superintendent is of opinion that the question is one which ought to be decided by a court of law, he may refuse to decide it.—[Merchant Seamen (Payment of Wages and Discharge) Act, 1880, 43 & 44 Vic., c. 16, s. 4.]

Master to make report of discharge.

176. Upon every discharge effected before a shipping master, the master shall make and sign in a form sanctioned by the Board of Trade a report of

the conduct, character, and qualifications of the persons discharged, or may state in a column to be left for that purpose in the said form that he declines to give any opinion upon such particulars, or upon any of them; and the shipping master shall transmit the same to the Registrar General of Seamen, or to such other person as the Board of Trade directs, to be recorded, and shall, if desired so to do by any seaman, give to him or indorse on his certificate of discharge a copy of so much of such report as concerns him; and every person who makes, assists in making, or procures to be made, any false certificate or report of the service, qualifications, conduct, or character of any seaman, knowing the same to be false, or who forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such certificate or report, or who fraudulently makes use of any certificate or report, or of any copy of any certificate or report, which is forged or altered or does not belong to him, shall for each such offence be deemed guilty of a misdemeanor.

Discharge and Payment of Wages.

Remittance of Wages, and Savings Banks for Seamen.

Remittance of Wages, and Savings Banks for Seamen.

177. Facilities shall, if the Board of Trade so directs, be given for remitting the wages and other monies of seamen and apprentices to their relatives or other persons by means of money orders issued by shipping masters; and the Board of Trade may make regulations concerning such orders, and the persons by or to whom, and the mode and time in and at which, the same are to be paid, and may from time to time repeal or alter any such regulations; and all such regulations, so long as they are in force, shall be binding upon all persons interested or claiming to be interested in such orders, as well as upon the officers employed in issuing or paying the same; and no legal proceeding shall be instituted against the Board of Trade, or against any shipping master or other public officer employed about such orders, on account of any such regulations, or on account of any act done or left undone in pursuance thereof, or on account of any refusal, neglect, or omission to pay any such money order, unless such refusal, neglect, or omission arise from fraud or wilful misbehaviour on the part of the person against whom proceedings are instituted.

Facilities may be given for remitting seamen's wages.

178. The Board of Trade may, in any case in which it thinks fit so to do, cause the amount of any such money order as aforesaid to be paid to the person to whom or in whose favour the same may have been granted, or to his personal representatives, legatees, or next of kin, notwithstanding that such order may not be in his or their possession; and in all such cases from and after such payment the Board of Trade and every shipping master or other officer of the Board of Trade shall be freed from all liability in respect of such order.

Power to pay when order is lost.

179. Every shipping master or other public officer who grants or issues any money order with a fraudulent intent shall in England or Ireland be

Penalty for issuing money orders with.

Regulations of Savings Banks for Seamen.

Fraudulent intents. Savings banks for seamen may be established.

deemed guilty of felony, and in Scotland of a high crime and offence, and shall be liable to be kept in penal servitude for a term not exceeding four years.

180. *The Commissioners for the Reduction of the National Debt, or the Comptroller General acting under them, may, on the application and recommendation of the Board of Trade, establish savings banks at such ports and places within the United Kingdom, either in the shipping offices established in such ports or elsewhere, as may appear to be expedient, and may appoint treasurers to receive from or on account of seamen, or the wives and families of seamen, desirous to become depositors in such savings banks, deposits to an amount not exceeding one hundred and fifty pounds in the whole in respect of any one account, under such regulations as may be prescribed by the said Commissioners or Comptroller General; and such regulations shall be binding on all such treasurers and depositors; and the said Commissioners may remove such treasurers, and appoint others in their place; and all the provisions of the Acts now in force relating to savings banks, except so far as relates to the annual amount of deposit, shall apply to all savings banks which may be established under the authority of this Act, and to such treasurers and depositors as aforesaid.*—[Repealed by Merchant Seamen (Payment of Wages and Rating) Act, 1880, 43 & 44 Vic., c. 16, s. 12.]

Enactment concerning savings banks extended to seamen in the navy.

180*a*. The enactment of the Merchant Shipping Act, 1854, relating to savings banks shall apply to all seamen, and to their wives and families, whether such seamen belong to the royal navy or to the merchant service, or to any other sea service.—[The Merchant Shipping Act Amendment Act, 1855, 18 & 19 Vic., c. 91, s. 17.]

Legal Rights to Wages.

Legal Rights to Wages.

Right to wages and provisions, when to begin.

181. A seaman's right to wages and provisions shall be taken to commence either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

Right to wages and provisions when to begin.

181*a*. A seaman's right to wages and provisions shall be taken to commence either at the time at which he commences work, or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.—[Merchant Seamen's Act, 1859, Act I. of 1859, s. 47.]

Seamen not to give up certain rights.

182. No seaman shall by any agreement forfeit his lien upon the ship, or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provision of this Act, and every stipulation by which any seaman consents to abandon his right to wages in the case of the loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.

182*a*. No seaman shall, by any agreement, forfeit his lien upon the ship or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provision of this Act, and every stipulation by which any seaman consents to abandon his rights to wages in the case of the loss of the ship or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 48.]

Legal rights to Wages.

Seamen not to give up certain rights.

182*b*. It is hereby declared that the 182*d* section of the principal Act does not apply to the case of any stipulation made by the seamen belonging to any ship, which according to the terms of the agreement is to be employed on salvage service, with respect to the remuneration to be paid to them for salvage services to be rendered by such ship to any other ship or ships.—[The Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 18.]

Sect. 182 of principal Act not to extend to certain stipulations concerning salvage.

183. No right to wages shall be dependent on the earning of freight; and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo, and stores shall bar his claim.

Wages not to be dependent on the earning of freight.

183*a*. No right to wages shall be dependent on the earning of freight; and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 49.]

Wages not to be dependent on the earning of freight.

184. If any seaman or apprentice to whom wages are due under the last preceding enactment dies before the same are paid, they shall be paid and applied in the manner hereinafter specified with regard to the wages of seamen who die during a voyage.

In case of death, such wages to be paid as after mentioned.

184*a*. If any seaman or apprentice to whom wages are due under the last preceding section dies before the same are paid, they shall be paid and applied in the manner hereinafter specified with regard to the wages of seamen who die during a voyage.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 50.]

In case of death, such wages to be paid as after mentioned.

185. In cases where the service of any seaman terminates before the period contemplated in the agreement by reason of the wreck or loss of the ship, and also in cases where such service terminates before such period as aforesaid by

Rights to wages in case of termination of service by wreck or illness.

Legal Rights to Wages.

reason of his being left on shore at any place abroad under a certificate of his unfitness or inability to proceed on the voyage granted as hereinafter mentioned, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period.

Rights to wages in case of termination of service by wreck or loss.

185*a*. In cases where the service of any seaman terminates before the period contemplated in the agreement by reason of the wreck or loss of the ship, and also in cases where such service terminates before such period as aforesaid by reason of his being left on shore at any place abroad under a certificate of his unfitness or inability to proceed on the voyage granted under the provisions of the Merchant Shipping Act, 1854, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 51.]

Wages not to accrue during refusal to work or imprisonment.

186. No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work, nor, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Wages not to accrue during refusal to work or imprisonment.

186*a*. No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work; nor, unless the court or magistrate hearing the case otherwise directs for any period during which he is lawfully imprisoned for any offence committed by him.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 52.]

Period within which wages are to be paid.

187. The master or owner of every ship shall pay to every seaman his wages within the respective periods following; (that is to say) in the case of a home-trade ship, within two days after the termination of the agreement, or at the time when such seaman is discharged, whichever first happens; and in the case of all other ships (except ships employed in the southern whale fishery or on other voyages for which seamen by the terms of their agreement are wholly compensated by shares in the profits of the adventure) within three days after the cargo has been delivered, or within five days after the seaman's discharge, whichever first happens; and in all cases the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him; and every master or owner who neglects or refuses to make payment in manner aforesaid without sufficient cause shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days, not exceeding ten days, during which payment is delayed beyond the respective periods aforesaid, and such sum shall be recoverable as wages.

Period within which wages are to be paid.

187*a*. The master or owner of every ship shall pay to every seaman his wages within three days after the cargo has been delivered, or within five days after the seaman's discharge, whichever first happens; and the seaman shall, at the time of his discharge, be entitled to be paid on account a sum equal to

one-fourth part of the balance due to him; and every master or owner who neglects or refuses to make payment in manner aforesaid without sufficient cause shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days not exceeding ten days[1] during which payment is delayed beyond the respective periods aforesaid; and such sum shall be recoverable as wages.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 53.] *Legal Right to Wages.*

187*b*. When any monies are payable in India to any seaman or apprentice for wages or otherwise under any agreement wherein such monies are expressed to be payable in British currency, the seaman or apprentice shall be entitled to demand and recover, in the current coin of India, the amount due to him estimated according to the rate of exchange for the time being fixed by the Secretary of State for India in Council, with the concurrence of the Lords Commissioners of Her Majesty's Treasury, for the adjustment of financial transactions between the Imperial and the Indian Governments.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 54.][2] *Right to payment of wages at current rate of exchange.*

Mode of recovering Wages.

188. Any seaman or apprentice, or any person duly authorised on his behalf, may sue in a summary manner before any two justices of the peace acting in or near to the place at which the service has terminated, or at which the seaman or apprentice has been discharged, or at which any person upon whom the claim is made is or resides, or in Scotland either before any such justices or before the sheriff of the county within which any such place is situated, for any amount of wages due to such seaman or apprentice not exceeding fifty pounds over and above the costs of any proceeding for the recovery thereof, so soon as the same becomes payable; and every order made by such justices or sheriff in the matter shall be final. *Mode of recovering Wages.* *Seaman may sue for wages in a summary manner.*

188*a*. Any seaman or apprentice, or any person duly authorised in his behalf, may sue in a summary manner before any magistrate acting in or near to the place at which the service has terminated, or at which the seaman or apprentice has been discharged, or at which any person upon whom the claim is made is or resides, for any amount of wages due to such seaman or apprentice not exceeding five hundred rupees. Every order made by such magistrate in the matter shall be final.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 55.] *Seaman may sue summarily before any magistrate for wages not exceeding 500 rupees.* *Order of magistrate final.*

188*b*. When an order for the payment of wages is made by a magistrate under the last preceding section, and the wages are not paid at the time and in the manner prescribed, the sum mentioned in the order, with such further sum as may be thereby awarded for costs, shall be levied by distress and sale of the goods and chattels of the person directed to pay the same under a warrant to be issued for that purpose by the magistrate.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 56.] *Levy of wages by distress.*

[1] 1. Lush. 190. [2] As amended by s. 10, Act XIII of 1876.

Suits for recovering Wages.

Dismissal of suits, &c., instituted after period of limitation.

188c. Subject to the provisions contained in sections 5 to 25 (inclusive), every suit instituted, appeal presented, and application made, after the period of limitation prescribed therefor by the second schedule hereto annexed, shall be dismissed, although limitation has not been set up as a defence.

Explanation.—A suit is instituted, in ordinary cases, when the plaint is presented to the proper officer; in the case of a pauper, when his application for leave to sue as a pauper is filed; and in the case of a claim against a company which is being wound up by the court, when the claimant first sends in his claim to the official liquidator.

Illustrations.

(*a*).—A suit is instituted after the prescribed period of limitation. Limitation is not set up as a defence and judgment is given for the plaintiff. The defendant appeals. The Appellate Court must dismiss the suit.

(*b*).—An appeal presented after the prescribed period is admitted and registered. The appeal shall, nevertheless, be dismissed.

SCHEDULE II.

Description of Suit.	Period of limitation.	Time from which period begins to run.
No. 101. For a seaman's wages	3 years	The end of the voyage during which the wages are earned.

[Indian Limitation Act—Act XV of 1877, s. 4 and Art. 101, Schedule II.]

Restrictions on suits for wages in superior courts.

189. No suit or proceeding for the recovery of wages under the sum of fifty pounds shall be instituted by or on behalf of any seaman or apprentice in any Court of Admiralty or Vice-Admiralty, or in the Court of Session in Scotland, or in any superior Court of Record in her Majesty's dominions, unless the owner of the ship is adjudged bankrupt or declared insolvent, or unless the ship is under arrest or is sold by the authority of any such court as aforesaid, or unless any justices acting under the authority of this Act refer the case to be adjudged by such court, or unless neither the owner nor master is or resides within twenty miles of the place where the seaman or apprentice is discharged or put ashore.

No suit for wages under 500 rupees to be instituted in Admiralty Court, &c., except in certain cases.

189*a*. No suit or proceeding for the recovery of wages under the sum of five hundred rupees shall be instituted by or on behalf of any seaman or apprentice in any Court of Admiralty or Vice-Admiralty or in any court of civil judicature other than the court of small causes, where such court exists, unless the owner of the ship is adjudged bankrupt or declared insolvent, or unless the ship is under arrest or is sold by the authority of any such court, or unless the magistrate, acting under the authority of this Act, refers the case to be adjudged by such court.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 57.]

Mode of recovering Wages.

No seaman to sue for wages abroad, except in cases of discharge or of danger to life.

190. No seaman who is engaged for a voyage or engagement which is to terminate in the United Kingdom shall be entitled to sue in any court abroad for wages, unless he is discharged with such sanction as herein required and with the written consent of the master, or proves such ill-usage on the part of the master or by his authority as to warrant reasonable apprehension of danger to the life of such seaman if he were to remain on board; but if any seaman on his return to the United Kingdom proves that the master or owner has been guilty of any conduct or default which but for this enactment would have entitled the seaman to sue for wages before the termination of the voyage or engagement, he shall be entitled to recover in addition to his wages such compensation, not exceeding twenty pounds, as the court hearing the case thinks reasonable.

Master to have same remedies for wages as seamen.

191. Every master of a ship shall, so far as the case permits, have the same rights, liens, and remedies for the recovery of his wages which by this Act or by any law or custom any seaman, not being a master, has for the recovery of his wages; and if in any proceeding in any Court of Admiralty or Vice-Admiralty touching the claim of a master to wages any right of set-off or counter-claim is set up, it shall be lawful for such court to enter into and adjudicate upon all questions and to settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.

Master to have same remedies for wages as seamen.

191*a*. Every master[1] of a ship shall, so far as the case permits, have the same rights, liens,[2] and remedies for the recovery of his wages which by this Act or by any law or custom any seaman, not being a master, has for the recovery of his wages; and if, in any proceeding in any Court of Admiralty or Vice-Admiralty touching the claim of a master to wages, any right of set-off or counter-claim is set up, it shall be lawful for such court to enter into and adjudicate upon all questions, and to settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 58.]

Relief to Seamen's Families out of Poor Rates.

Relief to Seamen's Families out of Poor Rates.

Relief to seamen's families to be chargeable on a certain proportion of their wages.

192. Whenever during the absence of any seaman on a voyage his wife, children, and step-children, or any of them, become or becomes chargeable to any union or parish in the United Kingdom, such union or parish shall be entitled to be reimbursed out of the wages of such seaman earned during such voyage any sums properly expended during his absence in the maintenance of his said relations, or any of them, so that such sums do not exceed the following proportions of his said wages (that is to say)—

(1) If only one of such relations is chargeable, one half of such wages;

[1] This includes the master of a foreign ship. The *Mitford* 1, Swa. 262.

[2] See *The Rajah of Cochin*, 1, Swa. 472.

Relief to Seamen's Families and of Poor Rates.

(2) If two or more of such relations are chargeable, two-thirds of such wages:

But if during the absence of the seaman any sums have been paid by the owner to or on behalf of any such relation as aforesaid under an allotment note given by the seaman in his, her, or their favour, any such claim for reimbursement as aforesaid shall be limited to the excess (if any) of the proportion of the wages hereinbefore mentioned over the sums so paid.

Notice to be given to owner, and charge to be enforced on the return of the seaman.

193. For the purpose of obtaining such reimbursement as aforesaid, the guardians of the union or parish, where the relief of the poor is administered by guardians, and the overseers of the poor of any other parish in England, and the guardians or other persons having the authority of guardians in any union in Ireland, and the inspector of the poor in Scotland, may give to the owner of the ship in which the seaman is serving a notice in writing, stating the proportion of the seaman's wages upon which it is intended to make the claim, and requiring the owner to retain such proportion in his hands for a period to be therein mentioned, not exceeding twenty-one days from the time of the seaman's return to his port of discharge, and also requiring such owner immediately on such return to give to such guardians, overseers, persons, or inspector, notice in writing of such return; and such owner, after receiving such notice as aforesaid, shall be bound to retain the said proportion of wages, and to give notice of the seaman's return accordingly, and shall likewise give to the seaman notice of the intended claim; and the said guardians, overseers, persons, or inspector may upon the seaman's return apply in a summary way in England or Ireland to any two justices having jurisdiction in such union or parish as aforesaid, and in Scotland to the sheriff of the county, for an order for such reimbursement as aforesaid; and such justices or sheriff may hear the case, and may make an order for such reimbursement to the whole extent aforesaid, or to such lesser amount as they or he may under the circumstances think fit—and the owner shall pay to such guardians, overseers, persons, or inspector, out of the seaman's wages, the amount so ordered to be paid by way of reimbursement, and shall pay the remainder of the said wages to the seaman; and if no such order as aforesaid is obtained within the period mentioned in the notice so to be given to the owner as aforesaid, the proportion of wages so to be retained by him as aforesaid shall immediately on the expiration of such period, and without deduction, be payable to the seaman.

Wages and Effects of deceased Seamen.

Wages and Effects of deceased Seamen.

Masters to take charge of or sell effects of deceased seamen which are on board, and enter the same and wages due in the official log.

194. Whenever any seaman or apprentice belonging to or sent home in any British ship, whether a foreign-going ship or a home-trade ship, employed on a voyage which is to terminate in the United Kingdom dies during such voyage, the master shall take charge of all money, clothes, and effects which he leaves on board, and shall, if he thinks fit, cause all or any of the said

clothes and effects to be sold by auction at the mast or other public auction, and shall thereupon sign an entry in the official log book containing the following particulars (that is to say)— *Wages and Effects of deceased Seamen.*

(1) A statement of the amount of the money and a description of the effects so left by the deceased:

(2) In case of a sale, a description of each article sold, and the sum received for each:

(3) A statement of the sum due to the deceased as wages, and the total amount of the deductions (if any) to be made therefrom:

And shall cause such entry to be attested by a mate and by one of the crew.

194*a*. The wages of seamen or apprentices who are lost with the ship to which they belong shall be dealt with as follows (that is to say)— *Recovery of wages, &c., of seamen lost with their ship.*

(1) The Board of Trade may recover the same from the owner of the ship in the same manner in which seamen's wages are recoverable:

(2) In any proceedings for the recovery of such wages, if it is shown by some official return produced out of the custody of the Registrar General of Seamen or by other evidence that the ship has twelve months or upwards before the institution of the proceeding left a port of departure, and if it is not shown that she has been heard of within twelve months after such departure, she shall be deemed to have been lost with all hands on board, either immediately after the time she was last heard of, or at such later time as the court hearing the case may think probable:

(3) The production out of the custody of the Registrar General of Seamen or of the Board of Trade of any duplicate agreement or list of the crew made out at the time of the last departure of the ship from the United Kingdom, or of a certificate purporting to be a certificate from a Consular or other public officer at any port abroad, stating that certain seamen or apprentices were shipped in the ship from the said port, shall, in the absence of proof to the contrary, be sufficient proof that the seamen or apprentices therein named were on board at the time of the loss:

(4) The Board of Trade shall deal with such wages in the manner in which they deal with the wages of other deceased seamen and apprentices under the principal Act.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 21.]

194*b*. Whenever a seaman or apprentice, on a voyage which is to terminate at any port in India, dies during such voyage, the master shall take charge of all money, clothes, and effects which he leaves on board, and shall enter in the official log book a statement of the amount of money and a description of the effects left by the deceased, and in case of a sale of such effects, the sum received for each article sold.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 59.] *Master to take charge of effects of deceased seamen.*

Wages and effects of deceased Seamen.

Each effects and wages to be paid either to Consul or to shipping master with full accounts.

195. In the cases provided for by the last preceding section,[1] the following rules shall be observed (that is to say)—

(1) If the ship proceeds at once to any port in the United Kingdom without touching on the way at any foreign port, the master shall within forty-eight hours after his arrival deliver any such effects as aforesaid remaining unsold, and pay any money which he has taken charge of or received from such sale as aforesaid, and also the balance of wages due to the deceased, to the shipping master at the port of destination in the United Kingdom;

(2) If the ship touches and remains for forty-eight hours at some foreign port or at some port in Her Majesty's dominions abroad before coming to any port in the United Kingdom, the master shall report the case to the British Consular officer or officer of Customs there, as the case may be, and shall give to such officer any information he requires as to the destination of the ship and probable length of the voyage; and such officer may thereupon, if he considers it expedient so to do, require the said effects, money, and wages to be delivered and paid to him, and shall upon such delivery and payment give to the master a receipt, and the master shall within forty-eight hours after his arrival at his port of destination in the United Kingdom produce the same to the shipping master there; and such Consular officer or officer of Customs shall in such case indorse and certify upon the agreement with the crew such particulars with respect to such delivery and payment as the Board of Trade requires:

(3) If such officer as aforesaid does not require such payment and delivery to be made to him, the master shall take charge of the said effects, money, and wages, and shall within forty-eight hours after his arrival at his port of destination in the United Kingdom deliver and pay the same to the shipping master there;

(4) The master shall in all cases in which any seaman or apprentice dies during the progress of a voyage or engagement give to the Board of Trade, or to such officer or shipping master as aforesaid, an account in such form as they respectively require of the effects, money, and wages so to be delivered and paid; and no deductions claimed in such account shall be allowed unless verified, if there is any official log book, by such entry therein as hereinbefore required, and also by such other vouchers (if any) as may be reasonably required by the Board Trade, or by the officer or shipping master to whom the account is rendered:

(5) Upon due compliance with such of the provisions of this section as relate to acts to be done at the port of destination in the United

[1] See s. 194

Kingdom, the shipping master shall grant to the master a certificate to that effect; and no officer of Customs shall clear inwards any foreign-going ship without the production of such certificate.

Wages and Effects of deceased Seamen.

195*a*. The master shall, within forty-eight hours after his arrival at his port of destination in India, deliver any such effects as aforesaid, and pay any money which he has taken charge of or received, and also the wages due to deceased, to the shipping master at such port, and shall give to such shipping master an account of the effects, money, and wages so to be delivered and paid; and no deductions claimed in such account shall be allowed unless verified, if there is an official log book, by the entry therein hereinbefore required, and also by such other vouchers (if any) as may be reasonably required by the shipping master to whom the account is rendered.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 60.]

Effects and wages to be paid to shipping master with full accounts.

196. If any master fails to take such charge of the money or other effects of a seaman or apprentice dying during the voyage, or to make such entries in respect thereof, or to procure such attestation to such entries, or to make such payment or delivery of any money, wages, or effects of any seaman or apprentice dying during a voyage, or to give such account in respect thereof, as hereinbefore respectively directed, he shall be accountable for the money, wages, and effects of the seaman or apprentice to the Board of Trade, and shall pay and deliver the same accordingly; and such master shall in addition for every such offence incur a penalty not exceeding treble the value of the money or effects not accounted for, or, if such value is not ascertained, not exceeding fifty pounds; and if any such money, wages, or effects are not duly paid, delivered, or accounted for by the master, the owner of the ship shall pay, deliver, and account for the same, and such money and wages and the value of such effects shall be recoverable from him accordingly; and if he fails to account for and pay the same, he shall, in addition to his liability for the said money and value, incur the same penalty which is hereinbefore mentioned as incurred by the master for the like offence; and all money, wages, and effects of any seaman or apprentice dying during a voyage shall be recoverable in the same courts and by the same modes of proceeding by which seamen are hereby enabled to recover wages due to them.

Penalties for not taking charge of, retaining, or accounting for such money and effects.

196*a*. If the master fails to take such charge of the money or other effects of a seaman or apprentice dying during a voyage, or to make such entries in respect thereof, or to make such payment or delivery, or to give such account as hereinbefore respectively directed, he shall be accountable for the money, wages, and effects of the seaman or apprentice to the shipping master as aforesaid, and shall pay and deliver the same accordingly; and such master shall in addition incur a penalty not exceeding treble the value of the money or effects, or, if such value is not ascertained, not exceeding five hundred rupees. All money, wages, and effects of any seaman or apprentice dying during a voyage shall be recoverable in the same courts and by the same modes of

Penalties for not taking charge of or accounting for such money and effects.

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199*a*. When money or effects left by or due to any decease
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ing debts to the representatives of deceased persons[1]) to be taken o
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the deceased.—[Merchant Seamen's Act, 1859—Act I of 1859, s.

200. In cases where the deceased seaman or apprentice has lef
Board of Trade shall have the following powers (that is to say)—

(1) It may in its discretion refuse to pay or deliver any su
effects as aforesaid to any person claiming to be enti
under a will made on boardship unless such will is in
is signed or acknowledged by the testator in the pres
master or first or only mate of the ship, and is attested b
ter or mate:

(2) It may in its discretion refuse to pay or deliver any su
effects as aforesaid to any person not being related to
by blood or marriage who claims to be entitled thereto
made elsewhere than on boardship, unless such will is
and is signed or acknowledged by the testator in the pres
witnesses, one of whom is some shipping master appo
this Act, or some minister or officiating minister or cu
place in which the same is made, or, in a place where
such persons, some justice of the peace, or some Briti
officer, or some officer of Customs, and is attested by such

[1] Repealed by Act XXVII of 1860.

charged from all further liability in respect of the money and effects so paid and delivered, or may, if it thinks fit so to do, require probate or letters of administration or confirmation to be taken out, and thereupon pay and deliver the said money and effects to the legal personal representatives of the deceased; and all claimants to whom such money or effects are so paid or delivered shall apply the same in due course of administration; and if such money and effects exceed in value the sum of fifty pounds, then, subject to the provisions hereinafter contained, and to deduction for expenses, the Board of Trade shall pay and deliver the same to the legal personal representatives of the deceased.

Wages and Effects of deceased Seamen.

199*a*. When money or effects left by or due to any deceased seaman or apprentice are paid or delivered to a shipping master, then, subject to such deductions for expenses incurred in respect of the seaman or apprentice or of his said money and effects as the shipping master thinks proper to allow, the shipping master may pay and deliver the said money and effects to any claimants who can prove themselves to the satisfaction of the said shipping master to be entitled thereto, and the said shipping master shall be thereby discharged from all further liability in respect of the money and effects so paid and delivered; or if he think fit so to do, the shipping master may require probate or letters of administration or a certificate under Act XX of 1841 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*[1]) to be taken out, and thereupon pay and deliver the said money and effects to the legal representative of the deceased.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 62.]

Wages and property of deceased seamen may be paid without probate.

200. In cases where the deceased seaman or apprentice has left a will, the Board of Trade shall have the following powers (that is to say)—

Mode of payment under wills made by seamen.

(1) It may in its discretion refuse to pay or deliver any such wages or effects as aforesaid to any person claiming to be entitled thereto under a will made on boardship unless such will is in writing, and is signed or acknowledged by the testator in the presence of the master or first or only mate of the ship, and is attested by such master or mate:

(2) It may in its discretion refuse to pay or deliver any such wages or effects as aforesaid to any person not being related to the testator by blood or marriage who claims to be entitled thereto under a will made elsewhere than on boardship, unless such will is in writing, and is signed or acknowledged by the testator in the presence of two witnesses, one of whom is some shipping master appointed under this Act, or some minister or officiating minister or curate of the place in which the same is made, or, in a place where there are no such persons, some justice of the peace, or some British Consular officer, or some officer of Customs, and is attested by such witnesses.

[1] Repealed by Act XXVII of 1860.

Wages and effects of deceased seamen.

Whenever any claim made under a will is rejected by the Board of Trade on account of the said will not being made and attested as hereinbefore required, the wages and effects of the deceased shall be dealt with as if no will had been made.

Saving of wills of soldiers and seamen.

200*a*. And it is hereby enacted that, notwithstanding anything in this Act contained, any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his personal estate as he might have done before the making of this Act.[1]—[Act XXV of 1838, s. 29.]

Privileged wills.

200*b*. Any soldier being employed in an expedition or engaged in actual warfare, or any mariner being at sea, may, if he has completed the age of eighteen years, dispose of his property by a will made as is mentioned in the 53rd section.[2]

Such wills are called privileged will.

Illustrations.

(*a*) . . . . . .

(*b*) A is at sea in a merchant ship, of which he is purser; he is a mariner, and being at sea can make a privileged will.

(*c*) . . . . . .

(*d*) A, a mariner of a ship in the course of a voyage, is temporarily on shore while she is lying in harbour. He is, in the sense of the word used in this clause, a mariner at sea, and can make a privileged will.

(*e*) A, an admiral, who commands a naval force, but who lives on shore, and only occasionally goes on board his ship, is not considered at sea and cannot make a privileged will.

(*f*) . . . . . .

[Indian Succession Act, 1865—Act X of 1865, s. 52.]

Execution of privileged wills.

200*c*. Privileged wills may be in writing, or may be made by word of mouth.

The execution of them shall be governed by the following rules:—

First.—The will may be written wholly or in part by another person, and signed by the testator. In such case it need not be attested.

Second.—It may be written wholly or in part by another person, and signed by the testator. In such case it need not be attested.

Third.—If the instrument purporting to be a will is written wholly or in part by another person, and is not signed by the testator, it shall be considered to be his will, if it be shown that it was written by the testator's directions, or that he recognised it as his will.

If it appear on the face of the instrument that the execution of it in the manner intended by him was not completed, the instrument shall not by reason of that circumstance be invalid, provided that his non-execution of it can be reasonably ascribed to some cause other

[1] Repealed by Act VIII of 1865, except as to wills made before the 1st January 1866; as to such wills it extends to the whole of British India, except the Scheduled districts.

[2] See s. 200*c*.

than the abandonment of the testamentary intentions expressed in the instrument.

Wages and Effects of deceased Seamen.

Fourth.—If the soldier or mariner shall have written instructions for the preparation of his will, but shall have died before it could be prepared and executed, such instructions shall be considered to constitute his will.

Fifth.—If the soldier or mariner shall, in the presence of two witnesses, have given verbal instructions for the preparation of his will, and they shall have been reduced into writing in his lifetime, but he shall have died before the instrument could be prepared and executed, such instructions shall be considered to constitute his will, although they may not have been reduced into writing in his presence, nor read over to him.

Sixth.—Such soldier or mariner as aforesaid may make a will by word of mouth by declaring his intentions before two witnesses present at the same time.

Seventh.—A will made by word of mouth shall be null at the expiration of one month after the testator shall have ceased to be entitled to make a privileged will.—[Indian Succession Act, 1865—Act X of 1865, s. 53.]

Revocation of privileged will or codicil.

200*d*. A privileged will or codicil may be revoked by the testator, by an unprivileged will or codicil, or by any act expressing an intention to revoke it, and accompanied with such formalities as would be sufficient to give validity to a privileged will, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

Explanation.—In order to the revocation of a privileged will or codicil by an act accompanied with such formalities as would be sufficient to give validity to a privileged will, it is not necessary that the testator should at the time of doing that act be in a situation which entitles him to make a privileged will.—[Indian Succession Act, 1865—Act X of 1865, s. 59.]

201. The following rules shall be observed with respect to creditors of deceased seamen and apprentices (that is to say)—

Provision for payment of just claims by creditors and for prevention of fraudulent claims.

(1) No such creditor shall be entitled to claim from the Board of Trade the wages or effects of any such seaman or apprentice or any part thereof by virtue of letters of administration taken out by him, or by virtue of confirmation in Scotland as executor creditor:

(2) No such creditor shall be entitled by any means whatever to payment of his debt out of such wages and effects, if the debt accrued more than three years before the death of the deceased, or if the demand is not made within two years after such death:

(3) Subject as aforesaid, the steps to be taken for procuring payment of such debt shall be as follows (that is to say): Every person making a demand as creditor shall deliver to the Board of Trade an account

Wages and effects of deceased seamen.

in writing in such form as it requires, subscribed with his name, stating the particulars of his demand and the place of his abode, and verified by his declaration made before a justice;

(4) If before such demand is made any claim to the wages and effects of the deceased made by any person interested therein as his widow or child, or under a will, or under the statutes for the distribution of the effects of intestates, or under any other statute, or at common law, has been allowed, the Board of Trade shall give notice to the creditor of the allowance of such person's claim, and the creditor shall thereupon have the same rights and remedies against such person as if he or she had received the said wages and effects as the legal personal representative of the deceased;

(5) If no claim by any such person has been allowed, the Board of Trade shall proceed to investigate the creditor's account, and may for that purpose require him to prove the same, and to produce all books, accounts, vouchers, and papers relating thereto; and if by such means the creditor duly satisfies the Board of Trade of the justice of the demand, either in the whole or in part, the same shall be allowed and paid accordingly, so far as the assets in the hands of the Board of Trade will extend for that purpose, and such payment shall discharge the Board of Trade from all further liability in respect of the money so paid; but if such Board is not so satisfied, or if such books, accounts, vouchers, or papers as aforesaid are not produced, and no sufficient reason is assigned for not producing them, the demand shall be disallowed;

(6) In any case whatever the Board of Trade may delay the investigation of any demand made by a creditor for the payment of his debt for one year from the time of the first delivery of the demand; and if in the course of that time a claim to the wages and effects of the deceased is made and substantiated as hereinbefore required by any person interested therein as a widow or child, or under a will, or under the statutes for the distribution of the effects of intestates, or under any other statute, or at common law, the Board of Trade may pay and deliver the same to such person; and thereupon the creditor shall have the same rights and remedies against such person as if he or she had received the same as the legal personal representative of the deceased.

Mode of dealing with undistributed wages of deceased seamen.

202. In cases of wages or effects of deceased seamen or apprentices received by the Board of Trade to which no claim is substantiated within six years after the receipt thereof by such Board, it shall be in the absolute discretion of such Board if any subsequent claim is made, either to allow or to refuse the same; and, subject to the provision hereinafter contained, the Board of Trade shall from time to time pay any monies arising from the unclaimed wages and effects of deceased seamen, which in the opinion of such

Board it is not necessary to retain for the purpose of satisfying claims, into the receipt of her Majesty's Exchequer, in such manner as the Treasury directs, and such monies shall be carried to and form part of the Consolidated Fund of the United Kingdom.

Wages and Effects of deceased Seamen.

202*a*. In cases of wages or effects of deceased seamen or apprentices received by any shipping master to which no claim is substantiated within one year from the receipt thereof by such shipping master, it shall be the duty of the shipping master to cause such effects to be sold and to pay the proceeds of the sale and the unclaimed wages into the public treasury.

Disposal of wages or effects of deceased seamen not claimed within one year.

If any subsequent claim is made to such money and is established to the satisfaction of the shipping master, the amount, or so much as shall appear to be due to the claimant, shall be paid out of the public treasury.

If subsequent claim be made thereto.

If the claim is not established to the satisfaction of the shipping master, the claimant may apply by petition in a summary way to the Supreme Court of Judicature of the presidency, or in any station of the Settlement of Prince of Wales' Island, Singapore, and Malacca, to the Court of Judicature there; and such Court, after taking evidence either orally or on affidavit, shall make such order on the petition as shall seem just.—[Merchant Seamen's Act, 1859.—Act I of 1859, s. 63.]

Punishment for forgery and false representations in order to obtain wages and property of deceased seamen.

203. Every person who, for the purpose of obtaining, either for himself or for another, any money or effects of any deceased seaman or apprentice, forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document purporting to show or assist in showing a right to such wages or effects, and every person who for the purpose aforesaid makes use of any such forged or altered document as aforesaid, or who for the purpose aforesaid gives or makes, or procures to be given or made, or assists in giving or making, or procuring to be given or made, any false evidence or representation, knowing the same to be false, shall be punishable with penal servitude for a term not exceeding four years, or with imprisonment with or without hard labour for any period not exceeding two years; or, if summarily prosecuted and convicted, by imprisonment, with or without hard labour, for any period not exceeding six months.

Effects of men discharged from Navy to be disposed of by Accountant General of Navy.

204. In the case of seamen invalided or discharged from any of Her Majesty's ships, and sent home in merchant ships any monies or effects belonging to them which are paid, remitted, or delivered to the Board of Trade, or its agents, under the provisions hereinbefore contained, shall be paid over and disposed of in such manner as the Accountant General of Her Majesty's Navy directs.

Leaving Seamen abroad.

Leaving Seamen abroad.

205. Whenever any British ship is transferred or disposed of at any place out of Her Majesty's dominions, and any seaman or apprentice belonging thereto does not in the presence of some British Consular officer, or, if there

On discharge of seamen abroad, by sale of ship or otherwise, certificates of

Foreign Seamen abroad.

Discharge of seamen to be given, and seamen to be sent home at expense of owner.

as no such Consular officer there, in the presence of one or more respectable British merchants residing at the place, and not interested in the said ship, signify his consent in writing to complete the voyage if continued, and whenever the service of any seaman or apprentice belonging to any British ship terminates at any place out of Her Majesty's dominions, the master shall give to each such seaman or apprentice a certificate of discharge in the form sanctioned by the Board of Trade as aforesaid, and in the case of any certificated mate whose certificate he has retained shall return such certificate to him, and shall also, besides paying the wages to which such seaman or apprentice is entitled, either provide him with adequate employment on board some other British ship bound to the port in Her Majesty's dominions at which he was originally shipped, or to such other port in the United Kingdom as is agreed upon by him, or furnish the means of sending him back to such port, or provide him with a passage home, or deposit with such Consular officer or such merchant or merchants as aforesaid such a sum of money as is by such officer or merchants deemed sufficient to defray the expenses of his subsistence and passage home; and such Consular officer or merchants shall indorse upon the agreement of the ship which the seaman or apprentice is leaving the particulars of such payment, provision, or deposit; and if the master refuses or neglects to comply with the requirements of this section, such expenses as last aforesaid, if defrayed by such Consular officer or by any other person, shall, unless such seaman or apprentice has been guilty of barratry, be a charge upon the ship to which such seaman or apprentice belonged, and upon the owner for the time being thereof, and may be recovered against such owners, with costs, at the suit of the Consular officer or other person defraying such expenses, or, in case the same has been allowed to the Consular officer out of the public monies, as a debt due to Her Majesty, either by ordinary process of law, or in the manner in which seamen are hereby enabled to recover wages; and such expenses, if defrayed by the seaman or apprentice, shall be recoverable as wages due to him.

Forcing seamen on shore is a misdemeanor.

206. If the master or any other person belonging to any British ship wrongfully forces on shore and leaves behind, or otherwise wilfully and wrongfully leaves behind, in any place, on shore or at sea, in or out of Her Majesty's dominions, any seaman or apprentice belonging to such ship before the completion of the voyage for which such person was engaged or the return of the ship to the United Kingdom, he shall for each such offence be deemed guilty of a misdemeanor.

No seamen to be discharged or left abroad without certificate of some functionary.

207. If the master of any British ship does any of the following things (that is to say)—

(1) Discharges any seaman or apprentice in any place situate in any British possession abroad (except the possession in which he was shipped), without previously obtaining the sanction in writing indorsed on the agreement of some public shipping master or other officer duly appointed by the Local Government in that behalf, or (in

the absence of any such functionary) of the chief officer of Customs resident at or near the place where the discharge takes place; *Leaving seamen abroad.*

(2) Discharges any seaman or apprentice at any place out of Her Majesty's dominions, without previously obtaining the sanction so indorsed as aforesaid of the British Consular officer there, or (in his absence) of two respectable merchants resident there;

(3) Leaves behind any seaman or apprentice at any place situate in any British possession abroad on any ground whatever, without previously obtaining a certificate in writing so indorsed as aforesaid from such officer or person as aforesaid, stating the fact and the cause thereof, whether such cause be unfitness or inability to proceed to sea, or desertion or disappearance;

(4) Leaves behind any seaman or apprentice at any place out of Her Majesty's dominions, on shore or at sea, on any ground whatever, without previously obtaining the certificate indorsed in manner and to the effect last aforesaid of the British Consular officer there, or (in his absence) of two respectable merchants, if there is any such at or near the place where the ship then is:

He shall for each such default be deemed guilty of a misdemeanor; and the said functionaries shall and the said merchants may examine into the grounds of such proposed discharge, or into the allegation of such unfitness, inability, desertion, or disappearance as aforesaid, in a summary way, and may for that purpose, if they think fit so to do, administer oaths, and may either grant or refuse such sanction or certificate as appears to them to be just.

207*a*. No seaman or apprentice not shipped in British India shall be discharged without the previous sanction in writing of such officer as the Local Government appoints in this behalf: and such sanction shall be given or withheld at the discretion of the officer so appointed; but whenever it is withheld, the reasons for so withholding it shall be recorded by him in writing. *Discharge of seamen.*

Any person discharging a seaman or apprentice in wilful disobedience to the prohibition contained in this section shall be liable to imprisonment for a term which may extend to three months, or to fine not exceeding one thousand rupees, or to both.—[Indian Merchant Seamen's Act, 1876—Act XIII of 1876, s. 4.]

208. Upon the trial of any information, indictment, or other proceeding against any person for discharging or leaving behind any seaman or apprentice contrary to the provisions of this Act, it shall be upon such person either to produce the sanction or certificate hereby required, or to prove that he had obtained the same previously to having discharged or left behind such seaman or apprentice, or that it was impracticable for him to obtain such sanction or certificate. *Proof of such certificate to be upon the master.*

209. Every master of any British ship who leaves any seaman or apprentice on shore at any place abroad in or out of Her Majesty's dominions, *Wages to be paid when seamen are left.*

Leaving Seamen abroad.

Behind on ground of inability.

under a certificate of his unfitness or inability to proceed on the voyage, shall deliver to one of the functionaries aforesaid, or (in the absence of such functionaries) to the merchants by whom such certificate is signed, or, if there be but one respectable merchant resident at such place, to him, a full and true account of the wages due to such seaman or apprentice, such account when delivered to a Consular officer to be in duplicate, and shall pay the same either in money or by a bill drawn upon the owner; and in the case of every bill so drawn such functionary, merchants, or merchant as aforesaid shall by indorsement certify thereon that the same is drawn for money due on account of a seaman's wages, and shall also indorse the amount for which such bill is drawn, with such further particulars in respect of the case as the Board of Trade requires, upon the agreement of the ship; and every such master as aforesaid who refuses or neglects to deliver a full account of such wages, and pay the amount thereof in money or by bill, as hereinbefore required, shall for every such offence or default be liable, in addition to the payment of the wages, to a penalty not exceeding ten pounds; and every such master who delivers a false account of such wages shall for every such offence, in addition to the payment of the wages, incur a penalty not exceeding twenty pounds.

Payment of wages to seamen abroad under section 209 of principal Act.

209*a*. The payment of seaman's wages required by the 209th section of the principal Act shall, wherever it is practicable so to do, be made in money and not by bill; and in cases where payment is made by bill drawn by the master, the owner of the ship shall be liable to pay the amount for which the same is drawn to the holder or indorsee thereof; and it shall not be necessary in any proceeding against the owner upon such bill to prove that the master had authority to draw the same; and any bill purporting to be drawn in pursuance of the said section, and to be indorsed as therein required, if produced out of the custody of the Board of Trade or of the Registrar General of Seamen, or of any superintendent of any mercantile marine office, shall be received in evidence; and any indorsement on any such bill purporting to be made in pursuance of the said section, and to be signed by one of the functionaries therein mentioned, shall also be received in evidence, and shall be deemed to be *primâ facie* evidence of the facts stated in such indorsement.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 19.]

Such wages to be treated as money due to the seaman, subject to a payment of expense of their subsistence and passage home.

210. Every such payment as last aforesaid, whether by bill or in money, shall, if made in any British possession, be made to the seaman or apprentice himself, and, if made out of Her Majesty's dominions, to the Consular officer, who shall, if satisfied with the account, indorse on one of the duplicates thereof a receipt for the amount paid or bill delivered, and shall return the same to the master; and the master shall within forty-eight hours after his return to his port of destination in the United Kingdom deliver the same to the shipping master there; and the Consular officer shall retain the other duplicate of the said account, and shall, if the seaman or apprentice subsequently obtains employment at or otherwise quits the port, deduct out of the sum received by him as aforesaid any expenses which have been incurred by him in respect of

the subsistence of the seaman or apprentice under the provisions herein contained, except such as the master or owner of the ship is hereby required to pay, and shall pay the remainder to the seaman or apprentice, and shall also deliver to him an account of the sums so received and expended on his behalf; and shall, if the seaman or apprentice dies before his ship quits the port, deal with the same in the manner hereinafter specified in that behalf, and shall, if the seaman or apprentice is sent home at the public expense under the provisions herein contained, account for the amount received to the Board of Trade; and such amount shall, after deducting any expenses which have been duly incurred in respect of such seaman or apprentice, except such as the master or owner of the ship is hereby required to pay, be dealt with as wages to which he is entitled, and shall be paid accordingly.

Leaving Seamen abroad.

211. The Governors, Consular officers, and other officers of Her Majesty in foreign countries shall, and in places where there are no such Governors or officers any two resident British merchants may, provide for the subsistence of all seamen or apprentices, being subjects of Her Majesty, who have been shipwrecked, discharged, or left behind at any place abroad, whether from any ship employed in the merchant service or from any of Her Majesty's ships, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign power or to the subject of any foreign state, and who are in distress in any place abroad, until such time as they are able to provide them with a passage home, and for that purpose shall cause such seamen or apprentices to be put on board some ship belonging to any subject of Her Majesty bound to any port of the United Kingdom, or to the British posession to which they belong (as the case requires), which is in want of men to make up its complement, and in default of any such ship shall provide them with a passage home as soon as possible in some ship belonging to a subject of Her Majesty so bound as aforesaid, and shall indorse on the agreement of any ship on board of which any seaman or apprentice is so taken or sent the name of every person so sent on board thereof, with such particulars concerning the case as the Board of Trade requires, and shall be allowed for the subsistence of any such seaman or apprentice such sum per diem as the Board of Trade from time to time appoints; and the amount due in respect of such allowance shall be paid out of any monies applicable to the relief of distressed British seamen, and granted by Parliament for the purpose, on the production of the bills of the disbursements, with the proper vouchers.

Distressed seamen found abroad may be relieved and sent home at the public expense.

212. The master of every British ship so bound as aforesaid shall receive and afford a passage and subsistence to all seamen or apprentices whom he is required to take one board his ship under the provisions hereinbefore contained, not exceeding one for every fifty tons burden, and shall during the passage provide every such seaman or apprentice with a proper berth or sleeping place, effectually protected against sea and weather; and on the production of a certificate signed by any Governor, Consular officer, or merchants by whose directions any such seaman or apprentice was received on board,

Masters of British ships compelled to take them.

Leaving Seamen abroad.

specifying the number and names of such seamen or apprentices, and the time when each of them respectively was received on board, and on a declaration made by such person before a justice, and verified by the Registrar General of Seamen, stating the number of days during which each seaman or apprentice received subsistence and was provided for as aforesaid on board his ship, and stating also the number of men and boys forming the complement of his crew, and the number of seamen and apprentices employed on board his ship during such time, and every variation (if any) of such number, such person shall be entitled to be paid out of the said monies applicable to the relief of distressed British seamen, in respect of the subsistence and passage of every seaman or apprentice so conveyed, subsisted, and provided for by him exceeding the number (if any) wanted to make up the complement of his crew, such sum per diem as the Board of Trade from time to time appoints; and if any person having charge of any such ship fails or refuses to receive on board his ship, or to give a passage home, or subsistence to, or to provide for, any such seaman or apprentice as aforesaid, contrary to the provisions of this Act, he shall incur a penalty not exceeding one hundred pounds for each seaman or apprentice with respect to whom he makes such default or refusal.

Extension of provisions concerning the relief of destitute seamen. 17 & 18 Vic., c. 104, ss. 211, 212, and 213.

212*a*. The Board of Trade may issue instructions concerning the relief to be administered to distressed seamen and apprentices, in pursuance of the two hundred and eleventh and two hundred and twelfth sections of the Merchant Shipping Act, 1854, and may by such instructions determine in what cases and under what circumstances and conditions such relief is to be administered; and all powers of recovering expenses incurred with respect to distressed seamen and apprentices, which by the two hundred and thirteenth section of the said Act are given to the Board of Trade, shall extend to all expenses incurred by any foreign government for the purposes aforesaid, and repaid to such government by Her Majesty's Government, and shall likewise extend to any expenses incurred by the conveying home such seamen or apprentices in foreign as well as British ships; and all provisions concerning the relief of distressed seamen and apprentices, being subjects of Her Majesty, which are contained in the said sections of the said Act, and in this section shall extend to such seamen and apprentices, not being subjects of Her Majesty, as are reduced to distress in foreign parts by reason of their having been shipwrecked, discharged, or left behind from any British ship; subject nevertheless to such modifications and directions concerning the cases in which relief is to be given to such foreigners, and the country to which they are to be sent, as the Board of Trade may, under the circumstances, think fit to make and issue.—[Merchant Shipping Act Amendment Act, 1855, 18 & 19 Vic., c. 91, s. 16.]

212*b*. Whereas under the 211th and 212th sections of the principal Act, and the 16th section of "The Merchant Shipping Act Amendment Act, 1855" provision is made for relieving and sending home seamen found in distress abroad: And whereas doubts are entertained whether power exists under

the said sections of making regulations and imposing conditions which are necessary for the prevention of desertion and misconduct and the undue expenditure of public money: Be it enacted, and it is hereby declared, that the claims of seamen to be relieved or sent home in pursuance of the said sections or any of them shall be subject to such regulations and dependent on such conditions as the Board of Trade may from time to time make or impose; and no seaman shall have any right to demand to be relieved or sent home except in the cases and to the extent provided for by such regulations and conditions.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 22.]

Leaving Seamen abroad.

Relief of distressed seamen abroad to be regulated by Board of Trade.

213. If any seaman or apprentice belonging to any British ship is discharged or left behind at any place out of the United Kingdom without full compliance on the part of the master with all the provisions in that behalf in this Act contained, and becomes distressed and is relieved under the provisions of this Act, or if any subject of Her Majesty, after having been engaged by any person (whether acting as principal or agent) to serve in any ship belonging to any foreign power, or to the subject of any foreign power, becomes distressed and is relieved as aforesaid, the wages (if any) due to such seaman or apprentice, and all expenses incurred for his subsistence, necessary clothing, conveyance home, and burial, in case he should die abroad before reaching home, shall be a charge upon the ship, whether British or foreign, to which he so belonged as aforesaid; and the Board of Trade may in the name of Her Majesty (besides suing for any penalties which may have been incurred) sue for and recover the said wages and expenses, with costs, either from the master of such ship as aforesaid, or from the person who is owner thereof for the time being, or, in the case of such engagement as aforesaid for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made as aforesaid; and such sums shall be recoverable either in the same manner as other debts due to Her Majesty, or in the same manner and by the same form and process in which wages due to the seaman would be recoverable by him; and in any proceedings for that purpose production of the account (if any) to be furnished as hereinbefore is provided in such cases, together with proof of payment by the Board of Trade or by the Paymaster General of the charges incurred on account of any such seaman, apprentice, or other person, shall be sufficient evidence that he was relieved, conveyed home, or buried (as the case may be) at Her Majesty's expense.

Power to sue for the amount advanced for the relief of seamen left abroad.

213*a*. Where any wages or expenses recoverable under section 213 of the Merchant Shipping Act, 1854, or under section 16 of the Merchant Shipping Act Amendment Act, 1855, are, under the same sections, a charge upon any ship, or recoverable from any master, owner, or other person, within the jurisdiction of any court in British India, the Governor General in Council may, from time to time, by notification in the *Gazette of India*, authorise, either generally or specially, such persons as he thinks fit to sue for and recover, in manner in the Merchant Shipping Act, 1854, section 213, provided, those wages or expenses.

Power to appoint persons to sue. 18 & 19 Vic., c. 91.

17 & 18 Vic., c. 104.

Leaving Seamen abroad.

(2) Every person so authorised shall be entitled to sue and recover accordingly in any such court, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause 7.[1]—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 32.]

Proceedings to be instituted in name of Secretary of State for India in Council.

213*b*. All suits and proceedings under section thirty-two shall be instituted and carried on in the name of the Secretary of State for India in Council.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 33.]

Relief of distressed seamen at Indian ports.

213*c*. The local authority may, subject to the rules hereinafter mentioned, provide for the subsistence—

(*a*) of all seamen and apprentices, being Native Indian subjects of Her Majesty, who have been shipwrecked, discharged or left behind at any place in British India, whether from any British ship employed in the merchant service, or from any of Her Majesty's ships, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign Power, or to the subject of any foreign state, and who are in distress in any such place; and

(*b*) of all seamen and apprentices not being Native Indian subjects who have been shipwrecked, discharged or left behind at any place in British India from any British ship registered in British India and who are in distress in any such place,

until such time as such authority is able to provide them with a passage as hereinafter provided.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 55.][2]

Distressed seamen to be sent home on board British ship wanting seamen to make up its crew.

213*d*. Subject as aforesaid, the local authority may cause such seamen or apprentices to be put on board some ship belonging to any subject of Her Majesty which is in want of men to make up its complement, and is bound—

(*a*) in the case of seamen or apprentices who are Native Indian subjects of Her Majesty, to their home or to a port in British India near their home;

(*b*) in the case of other British seamen or apprentices, to any port in the United Kingdom or the British possession to which they belong (as the case requires); and

(*c*) in the case of seamen or apprentices not being subjects of Her Majesty, to such place as the local authority, subject to the control of the Governor General in Council, may in each case determine.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 56.][2]

In default of such ship, on board of any ship.

213*e*. In default of any such ship, the local authority may, subject as aforesaid, provide such seamen or apprentices with a passage in any ship

[1] S. 57 (cl. 7). The accession to office, names, titles, functions and signatures of the persons filling for the time being any public office in any part of British India, if the fact of their appointment to such office is notified in the *Gazette of India* or in the official Gazette of any Local Government.

[2] See footnote to s. 213*a*.

(whether British or foreign) bound as aforesaid.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 57.][1]

Leaving Seamen ashore and [illegible]

213f. The local authority shall indorse on the agreement of any British ship on board of which any seaman or apprentice is sent under section fifty-six or section fifty-seven, the name of every person so sent on board thereof, with such particulars concerning the case as the Governor General in Council may from time to time by rule prescribe.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 58.][1]

Such [illegible] particulars with regard to seamen to be indorsed on agreement of British ship.

213g. The master of every British ship bound as aforesaid shall receive and afford a passage and subsistence to all seamen and apprentices whom he is required to take on board his ship under the provisions of section fifty-six or fifty-seven, not exceeding one for every fifty tons burden, and shall, during the passage, provide every such seaman or apprentice with a proper berth or sleeping-place effectually protected against sea and weather.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 59.][1]

Masters of British ships compelled to convey and give subsistence to such seamen.

213h. If the master of any such ship fails or refuses to receive on board his ship, or to give a passage or subsistence to, or to provide for, any such seaman or apprentice contrary to the provisions of section fifty-nine, he shall, for each seaman and apprentice with respect to whom he so fails or refuses, be punished with fine which may extend to one thousand rupees, or when he is tried at any place beyond the limits of British India, to the equivalent of one thousand rupees in the currency of such place.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 60.][1]

Penalty for refusing so to do.

213i. When any master of a British ship has conveyed a seaman or apprentice in excess of the number (if any) wanted to make up the complement of his crew to any place in accordance with the requisition of a local authority under this chapter, such master shall be entitled to be paid by the Secretary of State for India in Council in respect of the subsistence and passage of such seaman or apprentice such sum per diem as the Governor General in Council from time to time appoints:

Conditions under which master may claim payment.

Provided that no payment shall be made under this section except on the production of the following documents (that is to say)—

(*a*) a certificate signed by the local authority by whose direction such seaman or apprentice was received on board, specifying the name of such seaman or apprentice, and the time when he was received on board; and

[1] Section 213c to section 213o, inclusive, are to be read with and taken as part of Act I of 1859, but nothing in those sections applies to seamen or apprentices to whom the provisions of s. 211 of the Merchant Shipping Act, 1854, or of s. 16 of the Merchant Shipping Act Amendment Act, 1855, apply.

In these sections the words "Local Authority" mean such person as the Local Government may from time to time, subject to the control of the Governor General in Council, appoint by name or in virtue of his office to exercise the powers conferred, and to perform the duties imposed, on the local authority under these sections. Every person so appointed may be suspended or dismissed by the Local Government appointing him. (See Act VII of 1880, s. 54.)

Seamen Sections 213 to 213o.

(*b*) a declaration in writing by such master made and verified in manner hereinafter provided, and stating—

(1) the number of days during which such seaman or apprentice received subsistence and was provided for as aforesaid on board his ship;

(2) the number of men and boys forming the complement of his crew;

(3) the number of seamen and apprentices employed on board his ship during the time such seaman or apprentice was on board; and

(4) every variation (if any) of such number.

The declaration required by this section shall, in the case of a ship conveying Native Indian subjects of Her Majesty to a port in British India, be made before a shipping master or such other officer as the Local Government may appoint. In other cases such declaration shall be made and verified in the same manner as declarations made under section 212 of the Merchant Shipping Act, 1854.—[Merchant Shipping Act, 1880—Act VII of 1880, s. 61.][1]

Wages and expenses incurred in respect of distressed seamen to be charged on ship to which they belong in certain cases.

213*j*. (*a*) If any seaman or apprentice, being a Native Indian subject of Her Majesty and belonging to any British ship, is discharged or left behind at any place in British India without full compliance on the part of the master with all the provisions in that behalf of the law for the time being in force, and becomes distressed and is relieved under the provisions of this chapter; or

(*b*) if any such seaman or apprentice, after having been engaged by any person (whether acting as principal or agent) to serve in any ship belonging to any foreign power or to the subject of any foreign power, becomes distressed and is relieved as aforesaid; or

(*c*) if any seaman or apprentice belonging to any British ship registered in British India, and not being a Native Indian subject of Her Majesty, is discharged or left behind at any place in British India without full compliance as aforesaid, and becomes distressed and is relieved as aforesaid,

the wages (if any) due to such seaman or apprentice, and all expenses incurred for his subsistence, necessary clothing, conveyance home, and, in case he should die before reaching home, for his burial, shall be a charge upon the ship, whether British or foreign, to which he so belonged as aforesaid.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 62.][1]

[1] Sections 213*c* to section 213*o* inclusive, are to be read with and taken as part of Act I of 1859, but nothing in those sections applies to seamen or apprentices to whom the provisions of s. 211 of the Merchant Shipping Act, 1854, or of s. 16 of the Merchant Shipping Act Amendment Act, 1855, apply.

In these sections the words "Local Authority" mean such person as the Local Government may from time to time, subject to the control of the Governor General in Council, appoint by name or in virtue of his office to exercise the powers conferred, and to perform the duties imposed, on the local authority under these sections. Every person so appointed may be suspended or dismissed by the Local Government appointing him. (See Act VII of 1880, s. 5.)

Leaving Seamen abroad.

Mode of recovering such wages and expenses.

213*k*. All such wages and expenses shall be recoverable with costs either from the master of such ship or from the person who is owner thereof for the time being, or in the case of an engagement for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made, in the same manner as other debts due to the Secretary of State for India in Council, or in the same manner and by the same form and process in which wages due to the seaman or apprentice would be recoverable by him.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 63.][1]

Local Government may authorize persons to recover same.

213*l*. The Local Government may from time to time, by notification in the official Gazette, authorise, either generally or specially, such persons as it thinks fit to sue for any such wages and expenses and recover the same.

Such persons to be deemed persons filling a public office.

And every person so authorised shall be entitled to sue and recover accordingly, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause 7.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 64.][1]

Board of Trade may recover such amount from master or owner in certain cases.

213*m*. When any such wages and expenses are due to or in respect of a seaman or apprentice mentioned in section sixty-two,[2] clause (*e*), they may, instead of being recovered by a person authorised under section sixty-four, be recovered by the Board of Trade in manner provided by the Merchant Shipping Act, 1854, section 213, and when so recovered shall be paid by the said Board to the Secretary of State for India in Council.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 65.][1]

What shall be evidence of distress and expenses incurred.

213*n*. In all proceedings under this chapter, whether in India or elsewhere, the production of a certificate signed by the local authority by which any seaman or apprentice named therein was relieved, or any expenses were incurred, under this chapter, to the effect that such seaman or apprentice was in distress, and that such expenses were incurred in respect of such seaman or apprentice, shall be sufficient evidence that such seaman or apprentice was relieved, conveyed home or buried (as the case may be) at the expense of the revenues of India.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 66.][1]

Power of Governor General in Council to make rules.

213*o*. The Governor General in Council may, from time to time, make rules to determine under what circumstances and subject to what conditions seamen or apprentices may be relieved and provided with passages under this chapter and generally to carry out the provisions of this chapter.

[1] Section 213*e*, to section 213*o*, inclusive, are to be read with and taken as part of Act I of 1859, but nothing in those sections applies to seamen or apprentices to whom the provisions of s. 211 of the Merchant Shipping Act, 1854, or of s. 16 of the Merchant Shipping Act Amendment Act, 1855, apply.

In these sections the words "Local Authority" mean such person as the Local Government may from time to time, subject to the control of the Governor General in Council, appoint by name or in virtue of his office to exercise the powers conferred, and to perform the duties imposed on the local authority under these sections. Every person so appointed may be suspended or dismissed by the Local Government appointing him. (See Act VII of 1880, s. 54.)

[2] See s. 213*j*.

Leaving Seamen abroad.

All such rules shall be published in the *Gazette of India*, and shall thereupon have the force of law.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 67.][1]

Evidence of distress of seamen.

213*p*. A certificate signed by a Secretary to the Local Government, or by such other officer as it appoints in this behalf, to the effect that any seaman named therein is distressed, shall in all proceedings under sections 211, 212, and 213 of the Merchant Shipping Act, 1854, be conclusive evidence that such seaman is distressed within the meaning of the same sections; and any master of a British ship refusing to accept such seaman as a distressed seaman under the provisions of the said sections shall, for each seaman with respect to whom he so refuses, be liable to a fine which may extend to one thousand rupees.—[Indian Merchant Seamen Act, 1876—Act XIII of 1876, s. 3.]

Penalty for refusing to accept distressed seaman.

Leaving Europeans abroad.

Leaving Europeans abroad.

Liability of masters of European or employers of soldiers becoming vagrants.

213*q*. Whenever any person of European extraction lands in India, or, being a non-commissioned officer or soldier in Her Majesty's Army, leaves that Army in India, under an engagement to serve any other person, or any company, association or body of persons in any capacity,

and whenever a sailor of European extraction not being a British subject is discharged from his ship in any British Indian port,

and becomes chargeable to the State as a vagrant within one year after his arrival in India or leaving the Army, or discharge from his ship, as the case may be, then the person, or company, association or body, to serve whom he has so landed in India or left the Army, or, in the case of a sailor, the person who is at the date of the discharge the owner or agent of the ship from which the sailor has been so discharged, shall be liable to pay to the Government the cost of his removal under this Act, and all other charges incurred by the State in consequence of his becoming a vagrant.

Recovery of charges.

Such costs and charges shall be recoverable by suit as if an express agreement to repay them had been entered into with the Secretary of State for India in Council, by the person, company, association, body, owner or agent chargeable.—[European Vagrancy Act, 1874—Act IX of 1874, s. 31.]

Liability of masters in case of Europeans who serve in charge of animals and become vagrants.

213*r*. When any person of European extraction lands in India, being or having been during his passage to India, or from one Indian port to another, in charge of, or in attendance upon, any animal, and becomes chargeable to the State as a vagrant within one year after his arrival in India, then

[1] Section 213*e* to section 213*o*, inclusive, are to be read with and taken as part of Act I of 1859, but nothing in those sections applies to seamen or apprentices to whom the provisions of s. 211 of the Merchant Shipping Act, 1854, or of s. 16 of the Merchant Shipping Act Amendment Act, 1855, apply.

In these sections the words "Local Authority" mean such person as the Local Government may from time to time, subject to the control of the Governor General in Council, appoint by name or in virtue of his office to exercise the powers conferred, and to perform the duties imposed, on the local authority under these sections. Every person so appointed may be suspended or dismissed by the Local Government appointing him. (See Act VII of 1880, s. 54.)

the consignee of such animal,

or the agents in India for the sale of such animal,

or, if such consignee or agents cannot be found,

the agent to whom the ship in which such animal arrived in India was consigned,

shall be liable to pay to the Government the cost of such person's removal under this Act, and all other charges incurred by the State in consequence of his becoming a vagrant.

Leaving Europeans abroad.

Any such consignee or agent shall be entitled to charge the consignor or principal for any payment to the Government under this section.

For the purposes of this section "Consignee" includes any person who undertakes to dispose of such animal for the benefit of the consignor, and "Agent" includes any person who undertakes the agency of such ship, though it may not have been consigned to him.—[European Vagrancy Act, 1874—Act IX of 1874, s. 32.]

Volunteering into the Navy.

Volunteering into the Navy.

Seamen allowed to leave their ships in order to enter the Navy.

214. Any seaman may leave his ship for the purpose of forthwith entering into the Naval Service of Her Majesty, and such leaving his ship shall not be deemed a desertion therefrom, and shall not render him liable to any punishment or forfeiture whatever; and all stipulations introduced into any agreement whereby any seaman is declared to incur any forfeiture or be exposed to any loss in case he enters into Her Majesty's Naval Service shall be void, and every master or owner who causes any such stipulation to be so introduced shall incur a penalty not exceeding twenty pounds.

Clothes to be delivered at once.

215. Whenever any seaman, without having previously committed any act amounting to and treated by the master as desertion, leaves his ship in order to enter into the Naval Service of Her Majesty, and is received into such service, the master shall deliver to him his clothes and effects on board such ship, and shall pay the proportionate amount of his wages down to the time of such entry, subject to all just deductions, as follows; (that is to say) the master of the said ship shall pay the same to the officer authorised to receive such seaman into Her Majesty's service, either in money, or by bill drawn upon the owner, and payable at sight to the order of the Accountant General of the Navy; and the receipt of such officer shall be a discharge for the money or bill so given; and such bill shall be exempt from stamp duty; and if such wages are paid in money, such money shall be credited in the muster book of the ship to the account of the said seaman; and if such wages are paid by bill, such bill shall be noted in the said muster book and shall be sent to the said Accountant General, who shall present the same or cause the same to be presented for payment, and shall credit the produce thereof to the account of the said seaman; and such money or produce (as the case may be) shall not be paid to the said seaman until the time at which he would have been entitled to receive the same if he had remained in the service of the ship

Wages to be given to the Queen's officer on account of the seamen.

Transfer of wages to the Navy.

which he had so quitted as aforesaid; and if any such bill is not duly paid when presented, the said Accountant General or the seaman on whose behalf the same is given may sue thereon, or may recover the wages due by all or any of the means by which wages due to merchant seamen are recoverable; and if upon any seaman leaving his ship in the manner and for the purpose aforesaid the master fails to deliver his clothes and effects or to pay his wages as herein-before required, he shall in addition to his liability to pay and deliver the same, incur a penalty not exceeding twenty pounds: Provided that no officer who receives any such bill as aforesaid shall be subject to any liability in respect thereof, except for the safe custody thereof until sent to the said Accountant General as aforesaid.

Repayment to owner of advance paid and not duly earned.

216. If upon any seaman leaving his ship for the purpose of entering the Naval service of Her Majesty the owner or master of such ship shows to the satisfaction of the Admiralty that he has paid or properly rendered himself liable to pay an advance of wages to or on account of such seaman, and that such seaman had not at the time of quitting his ship duly earned such advance by service therein, and, in the case of such liability as aforesaid, if such owner or master actually satisfies the same, it shall be lawful for the Admiralty to pay to such owner or master so much of such advance as has not been duly earned, and to deduct the sum so paid from the wages of the seaman earned or to be earned in the Naval Service of Her Majesty.

If new seamen are engaged instead of the original seamen, the owner may apply for repayment of any extra expense he has been put to.

217. If in consequence of any seaman so leaving his ship without the consent of the master or owner thereof it becomes necessary for the safety and proper navigation of the said ship to engage a substitute or substitutes, and if the wages or other remuneration paid to such substitute or substitutes for subsequent service exceed the wages or remuneration which would have been payable to the said seaman under his agreement for similar service, the master or owner of the said ship may apply to the registrar of the High Court of Admiralty in England for a certificate authorising the repayment of such excess; and such application shall be in such form, and shall be accompanied by such documents, and by such statements, whether on oath or otherwise, as the judge of the said court from time to time directs.

Application, how to be decided on and amount of repayment how to be ascertained.

218. The said registrar shall upon receiving any such application as aforesaid give notice thereof in writing, and of the sum claimed, to the Secretary to the Admiralty, and shall proceed to examine the said application, and may call upon the Registrar General of Seamen to produce any papers in his possession relating thereto, and may call for further evidence; and if the whole of the claim appears to him to be just, he shall give a certificate accordingly; but if he considers that such claim or any part thereof is not just, he shall give notice of such his opinion in writing under his hand to the person making the said application, or his attorney or agent; and if within sixteen days from the giving of such notice such person does not leave or cause to be left at the office of the registrar of the said court a written notice demanding that the said application shall be referred to the judge of the said court, then

the said registrar shall finally decide thereon, and certify accordingly; but if such notice is left as aforesaid, then the said application shall stand referred to the said judge in his chambers, and his decision thereon shall be final, and the said registrar shall certify the same accordingly; and the said registrar and judge respectively shall in every proceeding under this Act have full power to administer oaths, and to exercise all the ordinary powers of the court, as in any other proceeding within its jurisdiction; and the said registrar or judge (as the case may be) may, if he thinks fit, allow for the costs of any proceeding under this Act any sum not exceeding five pounds for each seaman so quitting his ship as aforesaid; and such sum shall be added to the sum allowed, and shall be certified by the said registrar accordingly.

Enlistment into the Navy.

219. Every certificate so given shall be sent by post or otherwise to the person making the application, his attorney or agent, and a copy thereof shall be sent to the Accountant General of the Navy; and such Accountant General shall, upon delivery to him of the said original certificate, together with a receipt in writing purporting to be a receipt from the master or owner making the application, pay to the person delivering the same, out of the monies applicable to the Naval Service of Her Majesty, and granted by Parliament for the purpose, the amount mentioned in such certificate; and such certificate and receipt shall absolutely discharge the said Accountant General and Her Majesty from all liability in respect of the monies so paid, or of the said application.

Accountant General to pay sums when ascertained.

220. Every person who in making or supporting any such application as aforesaid to the registrar of the High Court of Admiralty forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document, and every person who in making or supporting any such application presents or makes use of any such forged or altered document, or who in making or supporting any such application makes or gives, or assists in making or giving, or procures to be made or given, any false evidence or representation, knowing the same to be false, shall be deemed guilty of a misdemeanor.

Penalty for forgery and false representations in support of such applications.

Provisions, Health, and Accommodation.

Provisions, Health, and Accommodation.

221. Any three or more of the crew of any British ship may complain to any officer in command of any of Her Majesty's ships, or any British Consular officer, or any shipping master, or any chief officer of Customs, that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity; and such officer may thereupon examine the said provisions or water, or cause them to be examined; and if on examination such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship; and if such master does not thereupon provide other proper provisions or water in lieu of any so signified to be of a bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be insufficient in quantity, or uses any provisions or water which have been so signified as aforesaid to be of a bad quality

Survey of provisions and water on complaint made.

Provisions, Health, and Accommodation.

and unfit for use, he shall in every such case incur a penalty not exceeding twenty pounds; and upon every such examination as aforesaid the officers making or directing the same shall enter a statement of the result of the examination in the official log, and shall send a report thereof to the Board of Trade, and such report, if produced out of the custody of such Board or its officers, shall be received in evidence in any legal proceeding.

Survey of provisions and water on complaint made.

221*a*. Any three or more of the crew of any ship registered at, trading with, or being at any port or place in India, may complain to any shipping master or other officer duly appointed in this behalf by the Local Government that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity; and such officer may thereupon examine the said provisions or water, or cause them to be examined; and if on examination such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship;

and if such master does not thereupon provide other proper provisions or water in lieu of any so signified to be of a bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be insufficient in quantity, or uses any provisions or water which have been so signified as aforesaid to be of a bad quality and unfit for use, he shall in every such case incur a penalty not exceeding two hundred rupees;

and upon every such examination as aforesaid, the officers making or directing the same shall enter a statement of the result of the examination in the official log, and shall send a report thereof to the shipping master, and such report, if produced out of the custody of such shipping master, shall be received in evidence in any legal proceeding.—[Merchant Seamen's Act, 1859—Act I of 1859, s 64.]

Forfeiture for frivolous complaint.

222. If the officer to whom any such complaint as last aforesaid is made certifies in such statement as aforesaid that there was no reasonable ground for such complaint, each of the parties so complaining shall be liable to forfeit to the owner, out of his wages, a sum not exceeding one week's wages.

Forfeiture for frivolous complaint.

222*a*. If the officer to whom any such complaint as last aforesaid is made certifies in such statement as aforesaid that there was no reasonable ground for such complaint, each of the parties so complaining shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 65.]

Allowance for short of bad provisions.

223. In the following cases (that is to say)—

(1) If during a voyage the allowance of any of the provisions which any seaman has by his agreement stipulated for is reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement, and also except for any time during which such seaman wilfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct, either on board or on shore);

(2) If it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use):

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The seaman shall receive by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums, to be paid to him in addition to and to be recoverable as wages (that is to say)—

(1) If his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agreement, a sum not exceeding four pence a day:

(2) If his allowance is reduced by more than one-third of such quantity, eight pence a day:

(3) In respect of such bad quality as aforesaid, a sum not exceeding one shilling a day:

But if it is shown to the satisfaction of the court before which the case is tried that any provisions the allowance of which has been reduced could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the court shall take such circumstances into consideration, and shall modify or refuse compensation as the justice of the case may require.

223*a*. In the following cases (that is to say)—

Allowance for short or bad provisions.

(1) If during a voyage the allowance of any of the provisions which any seaman has by his agreement stipulated for is reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement, and also except for any time during which such seaman wilfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct, either on board or on shore);

(2) If it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use;

The seaman shall receive by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums, to be paid to him in addition to and to be recoverable as wages (that is to say)—

(1) If his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agreement, a sum not exceeding three annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or one anna in the case of a lascar or native seaman.

(2) If his allowance is reduced by more than one-third of such quantity, six annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or two annas in the case of a lascar or native seaman.

(3) In respect of such bad quality as aforesaid, a sum not exceeding eight annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas in the case of a lascar or native seaman.

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But if it is shown to the satisfaction of the court or magistrate trying the case that any provisions, the allowance of which has been reduced, could not be procured, or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, such court or magistrate shall take such circumstances into consideration, and shall modify or refuse compensation as the justice of the case may require.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 66.]

Medicines, lime or lemon-juice, sugar, and vinegar, to be provided and kept on board certain ships.

224. *The following rules shall be observed with respect to medicines, medical stores, and anti-scorbutics (that is to say)*—

(1) *The Board of Trade shall from time to time issue and cause to be published a scale of medicines and medical stores suitable to accidents and diseases arising on sea voyages:*

(2) *The owner of every ship navigating between the United Kingdom and any place out of the same shall provide and cause to be constantly kept on board such ship a supply of such medicines and medical stores, in accordance with the said scale:*

(3) *The master or owner of every foreign-going ship (except those bound to European ports or to ports in the Mediterranean Sea, and also except such ships or classes of ships bound to ports on the eastern coast of America north of the thirty-fifth degree of north latitude, and to any islands or places in the Atlantic Ocean north of the same limit, as the Board of Trade may from time to time exempt from this enactment) shall also provide and cause to be kept on board such ship a sufficient quantity of lime or lemon juice, or of such articles as the Board of Trade sanctions as substitutes for lime or lemon juice, and also of sugar and vinegar.*—[Repealed by 30 & 31 Vic., c. 124, s. 3.]

Lime, &c., provided kept on and certain ships.

224*a*. All foreign-going ships and all home-trade ships of a burden exceeding three hundred tons shall have always on board a sufficient supply of medicines and appliances, suitable for diseases and accidents likely to happen on sea voyages, according to such scale as shall be from time to time issued by the Local Government with the approval of the Governor General of India in Council, and published at Calcutta, Madras, and Bombay in the Government Gazettes, and in the Straits Settlement in such manner as the Governor shall notify, and in default thereof the owner or master of every such ship shall be liable to a penalty not exceeding two hundred rupees: Provided, however, that this section shall not apply to ships navigating from the United Kingdom and coming within the provisions of section 224 of the Merchant Shipping Act, 1854.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 67.]

Masters to keep weights and measures on board.

225. Every master shall keep on board proper weights and measures for the purpose of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles, in the presence of a witness, whenever any dispute arises about such quantities, and in default shall for every offence incur a penalty not exceeding ten pounds.

Provisions, Health, and Accommodation.

Masters to keep weights and measures on board.

225*a*. Every master shall keep on board proper weights and measures for the purposes of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles, in the presence of a witness, whenever any dispute arises about such quantities, and in default shall for every offence incur a penalty not exceeding one hundred rupees.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 68.]

Board of Trade and local boards may appoint inspectors of medicines, who are to see that ships are properly provided.

226. Any local marine board may, upon being required by the Board of Trade so to do, appoint and remove a medical inspector of ships for the port and may fix his remuneration, such remuneration to be subject to the control of the Board of Trade; and at ports where there are no local marine boards the Board of Trade may appoint and remove such inspectors, and fix their remuneration; and it shall be the duty of such inspectors to inspect the medicines, medical stores, lime or lemon juice, or other articles, sugar and vinegar, required to be kept on board any such ships as aforesaid; and such inspection, if made at places where there are local marine boards, shall be made under their direction, and also in any special cases under the direction of the Board of Trade, and if made at places where there are no local marine boards, shall be made under the direction of the Board of Trade; and such medical inspectors shall for the purposes of such inspection have the same powers as the inspectors appointed by the Board of Trade under the first part of this Act; but every such inspector, if required by timely notice in writing from the master, owner, or consignee, shall make his inspection three days at least before the ship proceeds to sea, and if the result of the inspection is satisfactory shall not again make inspection before the commencement of the voyage, unless he has reason to suspect that some of the articles inspected have been subsequently removed, injured, or destroyed; and whenever any such medical inspector is of opinion that in any ship hereby required to carry such articles as aforesaid the same or any of them are deficient in quantity or quality, or are placed in improper vessels, he shall signify the same in writing to the chief officer of Customs of the port where such ship is lying, and also to the master, owner, or consignee thereof, and thereupon the master of such ship, before proceeding to sea, shall produce to such chief officer of Customs a certificate under the hand of such medical inspector, or of some other medical inspector, to the effect that such deficiency has been supplied or remedied, or that such improper vessels have been replaced by proper vessels, as the case may require; and such chief officer of Customs shall not grant a clearance for such ship without the production of such certificate, and if such ship attempts to go to sea without a clearance, may detain her until such certificate is produced; and if such ship proceeds to sea without the production of such certificate, the owner, master, or consignee thereof shall incur a penalty not exceeding twenty pounds.

Penalty for selling bad drugs for ship.

227. *Any person who sells or supplies any medicines, medical stores, lime or lemon juice, of bad quality, for the use of any ship, shall for each such*

Provisions, Health, and Accommodation.

offence incur a penalty not exceeding twenty pounds.—[Repealed by Merchant Shipping Act, 1867, 30 & 31 Vic., c. 124, s. 3.]

Power to Governors, &c., in British possessions to make regulations as to supply of lime or lemon juice, &c.

227*a*. In any British possession out of the United Kingdom the Governor or officer administering the Government for the time being shall, subject to the laws of such possession, have power to make regulations concerning the supply within such possession of lime or lemon juice and anti-scorbutics for the use of ships; and any lime or lemon juice or anti-scorbutics duly supplied in accordance with any such regulations shall be deemed to be fit and proper for the use of ships.—[Merchant Shipping Act, 1867, 30 & 31 Vic., c. 124, s. 6.]

Expense of medical attendance and subsistence in case of illness, and of burial in case of death, how to be defrayed.

228. The following rules shall be observed with respect to expenses attendant on illness and death (that is to say)—

(1) If the master or any seaman or apprentice receives any hurt or injury in the service of the ship to which he belongs, the expense of providing the necessary surgical and medical advice, with attendance and medicines, and of his subsistence until he is cured, or dies, or is brought back to some port in the United Kingdom, if shipped in the United Kingdom, or if shipped in some British possession to some port in such possession, and of his conveyance to such port, and the expense (if any) of his burial, shall be defrayed by the owner of such ship, without any deduction on that account from the wages of such master, seaman, or apprentice:

(2) If the master or any seaman or apprentice is on account of any illness temporarily removed from his ship for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently returns to his duty, the expense of such removal, and of providing the necessary advice, with attendance and medicines, and of his subsistence whilst away from the ship, shall be defrayed in like manner:

(3) The expense of all medicines and surgical or medical advice and attendance given to any master, seaman, or apprentice whilst on board his ship shall be defrayed in like manner:

(4) In all other cases any reasonable expenses duly incurred by the owner for any seaman in respect of illness, and also any reasonable expenses duly incurred by the owner in respect of the burial of any seaman or apprentice who dies whilst on service, shall, if duly proved, be deducted from the wages of such seaman or apprentice.

Expense of medical attendance and subsistence in case of illness how to be defrayed.

228*a*. Whenever the master or any seaman of any ship registered at any place in India shall receive any hurt or injury in the service of the vessel, the expense of providing the necessary surgical and medical advice and attendance with medicines, and of his subsistence, until he shall be cured or shall be brought back to the port from which he was shipped or other port agreed upon, shall be defrayed, with the cost of his conveyance to such port, by the owner of the vessel without any deduction on that account from the wages

of such master, officer, or seaman; and if paid by himself may be recovered as part of his wages; and if paid or allowed out of any monies forming part of the revenues of India, shall be a charge upon the ship, and may be recovered with full costs of suit by the Secretary of State in Council.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 69.] *Provisions, Health, and Accommodation.*

228*b*. The following rules shall be observed with respect to the medical inspection of seamen (that is to say)— *Rules for medical inspection of seamen.*

(1) At any port where there is a local marine board, the local marine board, and at other ports in the United Kingdom the Board of Trade, may appoint a medical inspector of seamen:

(2) Such medical inspector of seamen shall, on application by the owner or master of any ship, examine any seaman applying for employment in such ship, and shall give to the superintendent of the Mercantile Marine Office a report under his hand, stating whether such seaman is in a fit state for duty at sea, and a copy of such report shall be given to the master or owner of the ship:

(3) The master or owner applying for such inspection shall pay to the superintendent such fees as the Board of Trade direct, and such fees shall be paid into and form part of the Mercantile Marine Fund:

(4) The said medical inspectors shall be remunerated for their services as the Board of Trade may direct, and such remuneration shall be paid out of the Mercantile Marine Fund:

(5) In British possessions out of the United Kingdom the Governor or other officer administering the Government for the time being shall have the power of appointing medical inspectors of seamen, of charging fees for inspections, when applied for, and of determining the remuneration to be paid to such inspectors.—[Merchant Shipping Act, 1867, 30 & 31 Vic., c. 124, s. 10.]

229. If any such expenses in respect of the illness, injury, or hurt of any seaman or apprentice as are to be borne by the owner are paid by any Consular officer or other person on behalf of Her Majesty, or if any other expenses in respect of the illness, injury, or hurt of any seaman or apprentice whose wages are not accounted for to such officer under the provisions hereinbefore contained in that behalf are so paid, such expenses shall be repaid to such officer or other person by the master of the ship, and if not so repaid, the amount thereof, with costs, shall be a charge upon the ship, and be recoverable from the said master, or from the owner of the ship for the time being, as a debt due to Her Majesty, and shall be recoverable either by ordinary process of law or in the manner in which seamen are hereby enabled to recover wages; and in any proceeding for the recovery thereof the production of a certificate of the facts, signed by such officer or other person, together with such vouchers (if any) as the case requires, shall be sufficient proof that the said expenses were duly paid by such Consular officer or other person as aforesaid. *Expenses, if paid by Consul, to be recoverable from owner.*

Provisions, Health, and Accommodation.

Certain ships to carry medical practitioners.

230. Every foreign-going ship having one hundred persons or upwards on board shall carry on board as part of her complement some person duly authorised by law to practise as physician, surgeon, or apothecary; and in default the owner shall for every voyage of any such ship made without such medical practitioner incur a penalty not exceeding one hundred pounds: Provided that nothing herein contained shall in anywise affect any provision contained in the "Passengers Act, 1852," concerning the carriage of medical practitioners by the class of ships therein named passenger ships, nor shall any such passenger ship, if not thereby required to carry a medical practitioner, be hereby required to do so.

Place appropriated to seamen to have a certain space for each man and to be properly constructed and kept clear.

231 *The following rules shall be observed with respect to accommodation on board (that is to say)—*

(1) Every place in any ship occupied by seamen or apprentices and appropriated to their use shall have for every such seaman or apprentice, if they sleep in hammocks, a space of not less than nine superficial feet, and if they do not sleep in hammocks, a space of not less than twelve superficial feet, measured on the deck or floor of such place.

(2) Every such place shall either be six feet in height from deck to deck, or shall have for every seaman and apprentice, if they sleep in hammocks, a space of not less than fifty-four cubic feet, and if they do not sleep in hammocks, a space of not less than seventy-two cubic feet.

(3) Every such place shall be kept free from stores or goods of any kind, not being the personal property of the crew in use during the voyage.

(4) Every such place shall be properly caulked; and in all other respects securely and properly constructed and well ventilated.

And if any such place in any ship is not in the whole sufficiently large to give such space for each seaman and apprentice as hereinbefore required, or is not properly caulked and in all other respects securely and properly constructed and well ventilated, the owner shall, for every such failure to comply with the provisions of this section, incur a penalty not exceeding twenty pounds; and if any such space as aforesaid is not kept free from goods and stores as aforesaid, the master shall, for every such failure to comply with the provisions of this section, incur a penalty not exceeding ten pounds.—[Repealed by Merchant Shipping Act, 1867, 30 & 31 Vic., c. 124, s. 3.]

Place to be appropriated.

231*a*. A place or places of shelter shall be provided below a well caulked and substantial deck for the men engaged under this Act; such place or places shall be so arranged as to allow for the men the following spaces:—

To European seamen.

(1) For each European seaman or apprentice or other person shipped on the same footing as a European seaman, ten[1] superficial feet if the place be not less than six feet in height from deck to deck; or sixty[1] cubic feet if the height from deck to deck be less than six feet.

To lascars or native seamen.

(2) For each lascar or native seaman or other person shipped on the same footing as a lascar, six[1] superficial feet; and if the place allotted be

[1] Amended by s. 9 of Act XIII of 1876.

under the top-gallant forecastle, such forecastle deck shall be not less than four feet six inches above the one below it.

Provisions, Health, and Accommodation.

Every such place shall be kept free from stores or goods of any kind, not being the personal property of the crew in use during the voyage; and if any such place in any ship is not in the whole sufficiently large to give such space for each seaman and apprentice as hereinbefore required, or is not properly caulked and in all other respects securely and properly constructed and well ventilated, the owner shall, for every such failure to comply with the provisions of this section, incur a penalty not exceeding two hundred rupees; and if any such space as aforesaid is not kept free from goods and stores as aforesaid, the master shall, for every such failure to comply with the provisions of this section, incur a penalty not exceeding one hundred rupees.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 70.]

Place to be kept clear.

Penalty if place be not properly constructed.

Penalty for not keeping space clear.

231*b*. The shipping master at any port in India, by himself or his deputy, may enter at any time on board of any ship upon which seamen have been shipped at such port, and inspect the provisions and water provided for the use of the crew, and the medicines and appliances and the accommodation for seamen prescribed by this Act or by the Merchant Shipping Act, 1854.

Shipping master, &c., may enter on board any ship and inspect provisions, &c.

If on inspection the provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the shipping master shall proceed as provided in section 64[1] of this Act, and the penalty prescribed in the said section shall be incurred by any default of the master of the ship in respect of such provisions or water.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 71.]

Procedure if provisions, &c., are found to be bad.

Power of making Complaint.

Power of making Complaint.

232. If any seaman or apprentice whilst on board any ship states to the master that he desires to make complaint to a justice of the peace, or Consular officer, or naval officer in command of any of Her Majesty's ships, against the master or any of the crew, the said master shall, if the ship is then at a place where there is a justice or any such officer as aforesaid, so soon as the service of the ship will permit, and if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit, allow such seaman or apprentice to go ashore, or send him ashore in proper custody, so that he may be enabled to make such complaint, and shall, in default, incur a penalty not exceeding ten pounds.

Seamen to be allowed to go ashore to make complaint to a justice.

232*a*. If any seaman or apprentice whilst on board any ship states to the master that he desires to make complaint to a magistrate against the master or any of the crew, the said master shall, if the ship is then at a place where there is a magistrate, so soon as the service of the ship will permit, and if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit, allow such seaman to go ashore, or send him ashore in proper custody, so that he may be enabled to make such com-

Seamen to be allowed to go ashore to make complaint to a justice.

Power of taking complaint.

plaint, and shall, in default, incur a penalty not exceeding one hundred rupees.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 72.]

Health and Sanitary Regulations.

Health and Sanitary Regulations.

Master of vessels to hoist certain signals, when plague or infectious disease is on board.

On default penalty of 100l.

232*b*. And be it further enacted that every commander, master, or other person, having the charge of any vessel on board whereof the plague or other infectious disease or distemper highly dangerous to the health of His Majesty's subjects shall actually be, shall be and is hereby required at all times when such vessel shall meet with any other vessel at sea, or shall be within two leagues of the coast of the United Kingdom, or the islands of Guernsey, Jersey, Alderney, Sark, or Man, to hoist a signal to denote that his vessel has the plague or other infectious disease or distemper highly dangerous to the health of His Majesty's subjects actually on board thereof, which signal shall be in the day-time a flag of yellow and black, borne quarterly; of eight breadths of bunting, at the maintop mast-head; and in the night-time, the signal shall be two large signal lanthorns, such as are commonly used on board of His Majesty's ships of war, one over the other, at the same mast-head; and such commander, master, or other person shall keep such signal hoisted during such time as the said vessel so having the plague or such other infectious disease or distemper as aforesaid on board thereof shall continue within sight of such other vessel, or within two leagues of the coasts or islands aforesaid, while so in sight or within such distance, until such vessel so having the plague or such other infectious disease or distemper as aforesaid on board thereof shall have arrived at the port or place where it is to perform quarantine, and until it shall have been legally discharged from the performance thereof; on failure thereof such commander, master, or other person having charge of such vessel shall forfeit and pay for every such offence the sum of one hundred pounds.—[6 Geo. IV, c. 78, s. 9.]

Power to make quarantine rules.

232*c*. It shall be lawful for the Governor General in Council and (with the previous sanction of the said Governor General in Council) for the Local Governments respectively from time to time to make rules[1]

for putting any vessel into a state of quarantine with the shore or with other vessels, and for regulating the intercourse between ports where an infectious disease prevails and other ports.—[An Act to provide rules for Quarantine—Act I of 1870, s. 1.].

Quarantine rules to be deemed rules under section 271, Penal Code.

232*d*. All such rules shall be published in the *Gazette of India* and also in the local Gazette, and shall thereupon be deemed to be rules made and promulgated under section 271 of the Indian Penal Code.—[An Act to provide rules for Quarantine—Act I of 1870, s. 2.][2]

[1] See rules for 22 Madras Ports,—*Gazette of India*, 14th September 1872, page 872; *Fort St. George Gazette*, 1st October 1872, page 1017; Supplementary rule, *Gazette of India*, 4th October 1873, page 881; Port Surgeons, *Fort St. George Gazette*, 7th September 1875, page 1500. Rules for eight Burmese Ports—*Gazette of India*, 29th March 1873, page 27.

[2] Declared to apply to the whole of British India except the Scheduled Districts—Act XV of 1874.

Health and Sanitary Regulations.

Disobedience to a quarantine rule.

232*e*. Whoever knowingly disobeys any rule made and promulgated by the Government of India or by any Government, for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.—[Indian Penal Code—Act XLV of 1860, s. 271.]

Appointment and powers of health officer.

232*f*. The Local Government may, from time to time, appoint, at any port subject to this Act, an officer to be called the health officer, and may suspend or remove from office any officer so appointed.

A health officer shall, subject to the control of the Local Government, have the following powers within the limits of the port for which he is appointed (that is to say):—

(*a*) with respect to any ship, the powers conferred on a shipping master by Act I of 1859, s. 71:

(*b*) power to enter on board any ship and medically examine all or any of the seamen or apprentices on board the ship:

(*c*) power to require and enforce the production of the log book and any other books, papers, or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on board the ship:

(*d*) power to call before him and examine for any such purpose all or any of those persons and to require answers to any inquiries he thinks fit to make:

(*e*) power to require any person so examined to make and subscribe a declaration of the truth of the statements made by him.—[Indian Ports Act—Act XII of 1875, s. 18*a*.][1]

Appointment of health officer at port.

232*g*. It shall be lawful for Government to appoint a health officer of the port for the purposes of this Act, and the health officer of the port shall be an assistant to, and subject to the general control of, the consulting officer of health.—[Sanitary Regulation—Bom: Act VI of 1867, s. 2.]

Removal of persons suffering from infectious disease to sanitarium.

232*h*. When it shall appear to the consulting officer of health, or in his absence to the health officer of the port, that any person in the city of Bombay, being in the public streets or thoroughfares, or in a place of public resort, such as dharmsálas, temple-enclosures and the like, and without proper lodging or accommodation, or being on board any vessel, and without proper lodging or accommodation on shore, is suffering from an infectious disease dangerous to life, and that it is necessary for the safety of the public that he should be removed to a sanitarium, either of the said officers of health may require such person to proceed to a sanitarium, and the person so required shall be bound to proceed, or allow himself to be conveyed, to that sanitarium.

[1] Addition to section 18, see s. 31, Act V of 1883.

Health and Sanitary Regulations.

and shall be bound to remain there till one of the said officers of health certifies that he may go at large without danger to the public.

Penalty.

Any such person refusing or voluntarily neglecting to obey such requisition shall be liable to the penalties provided in section 269 of the Indian Penal Code.—[Sanitary Regulation—Bom: Act VI of 1867, s. 3.]

Removal by written order of person refusing to proceed to sanitarium.

232*i*. If any such person shall refuse or voluntarily neglect to proceed to the sanitarium when duly required in the manner described in the last preceding section, the consulting officer of health, or in his absence the health officer of the port, may, by a written order in the form given in the appended schedule, direct that such person be conveyed to a sanitarium, and such written order, signed by one of the said officers of health, shall be sufficient warrant for the conveyance of such person to the sanitarium.

SCHEDULE A.

To

WHEREAS A. B, being a person without proper lodging or accommodation in the city of Bombay, is suffering from an infectious disease dangerous to life, and it is necessary for the safety of the public that he should be removed to a sanitarium; and whereas having been required to proceed to such sanitarium he has neglected to do so, you are hereby authorised, with such assistant as you may require, to convey him, under section 4 of Act VI of 1867, to , and this shall be your warrant for so conveying him.

(Signed)

Consulting officer or Health Officer of the Port.

SCHEDULE B.

To the Master or Commander of vessel

WHEREAS A B, at present on board the vessel within the limits of the port of Bombay, is suffering from an infectious disease dangerous to life (or shows premonitory symptoms of a disease dangerous to life), these are to require you to remove the said A B to (here designate the sanitarium or other place on shore where, in the opinion of the consulting officer of health or health officer of the port, proper lodging and accommodation are available) and for enforcing the said removal this shall be your sufficient warrant.

(Signed)

Consulting officer or Health Officer of the Port.

[Sanitary Regulation—[Bom: Act VI of 1867, s. 4.]

Magistrate, on certificate of medical officer, to make requisition as in section 3.

Penalty.

232*j*. It shall be lawful for any magistrate of Police, on the certificate of a covenanted medical officer of Government, or of any member or licentiate of any college of physicians or surgeons of the United Kingdom or of India, as to the nature of the disease, and on such evidence as may be thought by him sufficient in regard to the other conditions recited in section 3 of this Act, to make requisition as in the said section, and any person refusing or voluntarily neglecting to obey such requisition, shall be liable to the penalties provided in section 269 of the Indian Penal Code.—[Sanitary Regulation—Bom: Act VI of 1867, s. 5.]

Health and Sanitary Regulations.

232*k*. When the master or commander of any vessel, being within the limits of the port of Bombay, shall become aware that any person on board his vessel is suffering from any infectious disease dangerous to life, he shall immediately give notice to the health officer of the port, and, pending the orders of the health officer of the port, he shall either remove such person to a sanitarium, or take other suitable precautions to prevent the spread of the disease.

Master of vessel to give notice of person suffering on board from infectious disease.

If the master or commander shall wilfully neglect to act as directed in this section, he shall be liable to the penalties provided in section 269 of the Indian Penal Code.—[Sanitary Regulation—Bom: Act VI of 1867, s. 6.]

Penalty.

232*l*. It shall be lawful for the consulting officer of health or for the health officer of the port at any time to enter into and inspect any vessel being within the limits of the port of Bombay, and to question the master or commander regarding the sanitary condition of the vessel and of the persons on board, and the master or commander shall be bound truthfully to answer such questions.

Power to health officers to enter vessel and question master or commander.

And if the master or commander shall wilfully give false information to either of the said officers, he shall be liable to the penalties provided in section 177 of the Indian Penal Code: and if he shall refuse to answer questions put to him, he shall be liable to the penalties provided in section 179 of the Indian Penal Code.—[Sanitary Regulation—Bom: Act VI of 1867, s. 7.]

Penalty.

232*m*. If it shall appear to the consulting officer of health or the health officer of the port that any person on board a vessel within the limits of the port of Bombay is suffering from any infectious disease dangerous to life, he may require the master or commander of the vessel to remove such person or any other person, who shows premonitory symptoms of such disease, to a sanitarium or other place on shore where, in the opinion of the health officer, proper lodging and accommodation are available; and the master or commander shall be bound to obey such requisition, and is hereby authorised and empowered to enforce such removal.

Master or commander may be required to remove person suffering from infectious disease.

And if the master or commander shall refuse or wilfully neglect to obey such requisition, he shall be liable to the penalties provided in section 269 of the Indian Penal Code.—[Sanitary Regulation—Bom: Act VI of 1867, s. 8.]

Penalty.

232*n*. When it shall appear to the health officer of the port that, owing to a person suffering from an infectious disease dangerous to life being on board or having recently been on board any vessel within the limits of the port of Bombay, it is expedient that measures should be taken for the disinfection of such vessel, the said health officer may, by an order in writing to the master or commander of such vessel, direct all or any part of the vessel to be forthwith fumigated or otherwise cleansed for sanitary purposes, in accordance with rules published on that behalf by Government under section 11 of this Act;

Disinfection of vessels.

and if the master or commander neglect to do so within the period fixed in the said order, provided such period be not less than twenty-four hours from

and recovery of expenses and penalties.

Penalties. Sanitary Regulations.

the time when such order shall have been served upon him, the said health officer may cause the same to be done, and the expenses incurred shall be paid by the owner or the master on demand, and if not so paid shall be recovered in the manner provided in section 35 of Act XII of 1875 (*to consolidate and amend the law relating to Ports and Port-dues*) for the recovery of penalties imposed under that Act.—[Sanitary Regulation—Bom: Act VI of 1867, s. 9.]

Detention by superintendent of persons in sanitarium until discharged.

232*o*. It shall be lawful for the superintendent of the sanitarium, and it shall be his duty, to detain in the sanitarium, under his charge all persons who shall come or be brought to such sanitarium under sections, 3, 4, 6, or 8,[1] until they shall be discharged under a certificate to be granted under rules made by Government under section 11 of this Act.—[Sanitary Regulation—Bom: Act VI of 1867, s. 10.]

Power to Government to make and publish rules.

232*p*. It shall be lawful for Government from time to time to make and publish general rules for the proper management and discipline of sanitaria established under this Act, and for the disinfection or destruction of the personal property of persons suffering or who have recently suffered from any infectious disease dangerous to life, and for the disinfection and cleansing of vessels on board of which such persons are or recently have been; and from time to time to alter or repeal such rules.

Penalty.

Any person who shall disobey such rules or any of them shall be liable to the penalties provided in section 271 of the Indian Penal Code.—[Sanitary Regulation—Bom: Act VI of 1867, s. 11.]

Power to determine what diseases are infectious.

232*q*. It shall be lawful for Government from time to time to determine by notification what diseases shall, for the purposes of this Act, be held to be infectious diseases dangerous to life.—[Sanitary Regulation—Bom: Act VI of 1867, s. 12.]

Power to authorise persons to exercise powers of health officer.

232*r*. It shall be lawful for Government, when necessary, to authorise any one or more persons to exercise all or any of the powers conferred by this Act on the consulting officer of health or on the health officer of the port, provided that every such person shall be a covenanted medical officer of Government, or a member or licentiate of any college of physicians or surgeons of the United Kingdom or of India, and shall exercise these powers subject to the general control of the consulting officer of health.—[Sanitary Regulation—Bom: Act VI of 1867, s. 13.]

Power to make special orders in special cases.

232*s*. Whenever it shall appear to Government that owing to the expected introduction of any infectious disease dangerous to life, or owing to other exceptional circumstances, the ordinary precautions authorised by this Act are insufficient to prevent the spread of such disease, it shall be lawful for Government, by notification, to make such orders, and from time to time to vary the same, as it shall deem expedient, for the enforcement of sanitary measures with respect to any vessel arriving at, or being within the limits of, the port of Bombay, or in regard to any person on board any such vessel, or their personal

Penalty.

[1] Ss. 232*k*, 232*l*, 232*k*, 232*m*.

property and any person disobeying such orders or any of them shall be liable to the penalties provided in section 271 of the Indian Penal Code.—[Sanitary Regulation—Bom: Act VI of 1867, s. 14.]

Health and Sanitary Regulation.

Protection of Seamen from Imposition.

Protection of Seamen from Imposition.

233. No wages due or accruing to any seaman or apprentice shall be subject to attachment or arrestment from any court; and every payment of wages to a seaman or apprentice shall be valid in law, notwithstanding any previous sale or assignment of such wages, or of any attachment, incumbrance, or arrestment thereon; and no assignment or sale of such wages, or of salvage, made prior to the accruing thereof, shall bind the party making the same; and no power-of-attorney or authority for the receipt of any such wages or salvage shall be irrevocable.

Sale of and charge upon wages to be invalid.

233*a*. No wages due or accruing to any seaman or apprentice shall be subject to attachment from any court; and every payment of wages to a seaman shall be valid in law, notwithstanding any previous sale or assignment of such wages or of any incumbrance thereon; and no assignment or sale of such wages, or of salvage, made prior to the accruing thereof, shall bind the party making the same; and no power-of-attorney or authority for the receipt of any such wages or salvage shall be irrevocable.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 73.]

Sale of and charge upon wages to be invalid.

234. No debt exceeding in amount five shillings, incurred by any seaman after he has engaged to serve, shall be recoverable until the service agreed for is concluded.

No debt exceeding 5s. recoverable till end of voyage.

234*a*. No debt exceeding in amount three rupees, incurred by any seaman after he has engaged to serve, shall be recoverable until the service agreed for is concluded.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 74.]

Debt exceeding three rupees when recoverable.

235. If any person demands or receives from any seaman or apprentice to the sea service payment in respect of his board or lodging in the house of such person for a longer period than such seaman or apprentice has actually resided or boarded therein, he shall incur a penalty not exceeding ten pounds.

Penalty for overcharges by lodging-house keepers.

235*a*. If any person demands or receives from any seaman or apprentice payment in respect of his board or lodging in the house of such person for a longer period than such seaman or apprentice has actually resided or boarded therein, he shall incur a penalty not exceeding one hundred rupees.—[Merchant Seamen's Act, 1859—Act I of 1859 s. 75.]

Penalty for overcharges by lodging-house keepers.

236. If any person receives or takes into his possession or under his control any monies, documents, or effects of any seaman or apprentice to the sea service, and does not return the same or pay the value thereof when required by such seaman or apprentice, subject to such deduction as may be justly due to him from such seaman or apprentice in respect of board or lodging or otherwise, or absconds therewith, he shall incur a penalty not exceeding ten pounds, and any two justices may, besides inflicting such penalty, by summary order

Penalty for detaining seamen's effects.

Protection of Seamen from Impressment.

direct the amount or value of such monies, documents, or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice.

Penalty for detaining seaman's effects.

236*a*. If any person receives or takes into his possession or under his control any monies, documents, or effects of any seaman or apprentice, and does not return the same or pay the value thereof when required by such seaman or apprentice, subject to such deduction as may be justly due to him from such seaman or apprentice in respect of board or lodging or otherwise, or absconds therewith, he shall incur a penalty not exceeding one hundred rupees; and any magistrate may, besides inflicting such penalty by summary order, direct the amount or value of such monies, documents, or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 76.]

Persons not to go on board before the final arrival of ship without permission.

237. Every person who, not being in Her Majesty's service, and not being duly authorised by law for the purpose, goes on board any ship about to arrive at the place of her destination, before her actual arrival in dock or at the place of her discharge, without the permission of the master, shall for every such offence incur a penalty not exceeding twenty pounds; and the master or person in charge of such ship may take any such person so going on board as aforesaid into custody, and deliver him up forthwith to any constable or peace officer, to be by him taken before a justice or justices, or the sheriff of the county in Scotland, and to be dealt with according to the provisions of this Act.

Persons not to go on board before the final arrival of ship without permission.

237*a*. Every person who, not being in the service of Her Majesty and not being duly authorised by law for the purpose, goes on board any ship about to arrive at the place of her destination before her actual arrival at the place of her discharge, without the permission of the master, shall for every such offence incur a penalty not exceeding two hundred rupees; and the master or person in charge of such ship may take any such person so going on board as aforesaid into custody, and deliver him up forthwith to any police officer, to be by him taken before a magistrate to be dealt with according to the provisions of this Act.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 77.]

Penalty for going on board ship without permission before seamen leave. See 17 & 18 Vict., c. 104, s. 25.

237*b*. Where a ship is about to arrive, is arriving, or has arrived at the end of her voyage, every person, not being in Her Majesty's service or not being duly authorised by law for the purpose, who—

(*a*) goes on board the ship, without the permission of the master, before the seamen lawfully leave the ship at the end of their engagement, or are discharged (whichever last happens); or,

(*b*) being on board the ship, remains there after being warned to leave by the master, or by a police officer, or by any officer of the Board of Trade or of the Customs,

shall for every such offence be liable on summary conviction to a fine not exceeding twenty pounds, or, at the discretion of the court, to imprisonment for any term not exceeding six months; and the master of the ship or any officer of the Board of Trade may take him into custody, and deliver him up

forthwith to a constable to be taken before a court or magistrate capable of taking cognizance of the offence, and dealt with according to law.—[Merchant Seamen's (Payment of Wages and Rating) Act, 1880, 43 & 44 Vic., c. 16, s. 5.]

Protection of Seamen from Impositions.

237c. Whenever it is made to appear to Her Majesty—

(1) that the Government of any foreign country has provided that unauthorised persons going on board of British ships which are about to arrive or have arrived within its territorial jurisdiction shall be subject to provisions similar to the provisions contained in the last preceding section as applicable to persons going on board British ships at the end of their voyages; and

(2) that the Government of such foreign country is desirous that the provisions of the said sections shall apply to unauthorised persons going on board of ships belonging to such foreign country within the limits of British territorial jurisdiction;

Provisions contained in section 7 to apply to ships belonging to foreign countries in certain cases.

Her Majesty may, by Order in Council, declare that the provisions of the said last preceding section shall apply to the ships of such country; and thereupon so long as the order remains in force those provisions shall apply and have effect as if the ships of such country were British ships arriving, about to arrive, or which have arrived at the end of their voyage.—[Merchant Seamen's (Payment of Wages and Rating) Act, 43 & 44 Vic., c. 16, s. 6.]

Penalty for solicitations by lodging-house keepers.

238. If within twenty-four hours after the arrival of any ship at any port in the United Kingdom any person then being on board such ship solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship any effects of any seamen, except under his personal direction and with the permission of the master, he shall for every such offence incur a penalty not exceeding five pounds.

Penalty for solicitations by lodging-house keepers.

238a. If, within twenty-four hours after the arrival of any ship at any port in India, any person then being on board such ship solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship any effects of any seaman, except under his personal direction and with the permission of the master, he shall for every such offence incur a penalty not exceeding fifty rupees.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 78.]

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Misconduct endangering ship, or life or limb a misdemeanor.

239. Any master of, or any seaman or apprentice belonging to, any British ship who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or for

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preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall for every such offence be deemed guilty of a misdemeanor.

Penalty for misconduct endangering life or limb.

239*a*. Any master of, or any seaman or apprentice belonging to, any ship registered at, trading with, or being at any port or place in India, who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall for every such offence be punished with fine which may extend to Rs. 1,000, or with imprisonment for a term which may extend to two years, or with both.[1]—[Merchant Seamen's Act, 1859—Act I of 1859, s. 79.]

Power of Admiralty courts to remove master.

240. Any court having admiralty jurisdiction in any of Her Majesty's dominions may, upon application by the owner of any ship being within the jurisdiction of such court, or by the part owner or consignee, or by the agent of the owner, or by any certificated mate, or by one-third or more of the crew of such ship, and upon proof on oath to the satisfaction of such court that the removal of the master of such ship is necessary, remove him accordingly; and may also, with the consent of the owner or his agent, or the consignee of the ship, or if there is no owner or agent of the owner or consignee of the ship within the jurisdiction of the court, then without such consent, appoint a new master in his stead; and may also make such order, and may require such security in respect of costs in the matter, as it thinks fit.

Admiralty court in India may in certain cases remove, master and appoint a new master.

240*a*. Any court having admiralty jurisdiction in India may, upon application by the owner of any ship being within the jurisdiction of such court, or by the part owner or consignee, or by the agent of the owner, or by any certificated mate, or by one-third or more of the crew of such ship, and upon proof on oath to the satisfaction of such court that the removal of the master of such ship is necessary, remove him accordingly; and may also, with the consent of the owner or his agent, or the consignee of the ship, or if there is no owner or agent of the owner or consignee of the ship within the jurisdiction of the court, then without such consent, appoint a new master in his stead, and may also make such order and may require such security in respect of costs in the matter as it thinks fit.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 80.]

Saving and provision as to powers for removal of master. 17 & 18 Vic., s. 164.

240*b*. (1) Nothing in this Act[2] shall affect the powers conferred by section two hundred and forty of the Merchant Shipping Act, 1854, or by section

[1] Act V of 1883, Indian Merchant Shipping Act, 1883, s. 36.

[2] Indian Merchant Shipping Act, 1883.

80 of Act I of 1859 *(for the amendment of the law relating to Merchant Shipping)* on courts having admiralty jurisdiction in India.

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(2) The powers conferred by the last mentioned enactment may, at any port in British India where there is no court having admiralty jurisdiction, be exercised by the principal court of ordinary criminal jurisdiction at that port.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 4.]

Power to investigate cases of alleged incompetency and misconduct.

241. If the Board of Trade or any local marine board has reason to believe that any master or mate is from incompetency or misconduct unfit to discharge his duties, the Board of Trade may either institute an investigation or may direct the local marine board at or nearest to the place at which it may be convenient for the parties and witnesses to attend to institute the same, and thereupon such persons as the Board of Trade may appoint for the purpose, or, as the case may be, the local marine board, shall, with the assistance of a local stipendiary magistrate (if any), and if there is no such magistrate, of a competent legal assistant to be appointed by the Board of Trade, conduct the investigation, and may summon the master or mate to appear, and shall give him full opportunity of making a defence either in person or otherwise, and shall for the purpose of such investigation have all the powers given by the first part of this Act to inspectors appointed by the Board of Trade, and may make such order with respect to the costs of such investigation as they may deem just, and shall on the conclusion of the investigation make a report upon the case to the Board of Trade; and in cases where there is no local marine board before which the parties and witnesses can conveniently attend, or where such local marine board is unwilling to institute the investigation, the Board of Trade may direct the same to be instituted before two justices or a stipendiary magistrate; and thereupon such investigation shall be conducted, and the results thereof reported, in the same manner and with the same powers in and with which formal investigations into wrecks and casualties are directed to be conducted, and the results thereof reported, under the provisions contained in the eighth part of this Act, save only that, if the Board of Trade so directs, the person bringing the charge of incompetency or misconduct to the notice of the Board of Trade shall be deemed to be the party having the conduct of the case.

Power of Board of Trade and local marine board to investigate conduct of certificated engineers.

241*a*. The power by the 241st section of the principal Act given to the Board of Trade or to any local marine board of instituting investigations into the conduct of any master or mate whom it has reason to believe to be from incompetency or misconduct unfit to discharge his duties, shall extend to any certificated engineer whom the Board of Trade or any local marine board has reason to believe to be from incompetency or misconduct unfit to discharge his duties, in the same manner as if in the said section the words "certificated engineer" had been inserted after "master" wherever "master" occurs in such section.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 11.]

Colonial courts or tribunals to

241*b*. Every court or tribunal which is already authorised or which may

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have jurisdiction to make inquiries into charges of incompetency or misconduct, or shipwrecks or other casualties affecting ships, outside the limits of the colony.

hereafter be authorised by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates, or engineers of ships, or as to shipwrecks or other casualties affecting ships, shall in the cases following (that is to say)—

(1) When the incompetency or misconduct has occurred on board of a British ship on or near the coasts of the British possession or on board of a British ship in the course of a voyage to a port within the British possession:

(2) When the incompetency or misconduct has occurred in any part of the world on board a British ship registered in the British possession:

(3) When the shipwreck or casualty occurs to a British ship on or near the coasts of the British possession or to a British ship in the course of a voyage to a port within the British possession:

(4) When the shipwreck or casualty occurs in any part of the world to a British ship registered in the British possession:

(5) When the master, mate, or engineer of a British ship who is charged with incompetency or misconduct on board of such British ship is found in the British possession:

(6) When some of the crew of a British ship which has been wrecked or to which a casualty has occurred, and who are competent witnesses to the facts, are found in the British possession:

wherever the incompetency, misconduct, shipwreck, or casualty has occurred, have the same jurisdiction as such court or tribunal would have had if such incompetency, misconduct, shipwreck, or casualty had occurred within the ordinary jurisdiction of such court or tribunal, but subject to all provisions, restrictions, and conditions which would have been applicable if they had so occurred: Provided that no inquiry shall be held under this Act into any shipwreck, or other casualty or charge of incompetency or misconduct, which has once been the subject of such an inquiry and has been reported on by any competent court or tribunal in any part of Her Majesty's dominions, or in respect of which the certificate of a master, mate, or engineer has been suspended or cancelled by a naval court; and provided also that where any inquiry has been commenced in the United Kindom no inquiry shall be made in the same case under the authority of this Act in any British possession.

In all the above cases the "British possession" shall mean the British possession by the legislative authority whereof the court or tribunal is authorised to make inquiry.—[Merchant Shipping Colonial Inquiries Act, 1882, 45 & 46 Vic., c. 76, s. 3.]

Colonial legislative authorities empowered to authorise inquiries into shipwrecks, casualties and charges of misconduct and

241. The legislative authority in any British possession is hereby empowered to authorise courts or tribunals to make inquiries in the cases enumerated in the last preceding section of this Act into charges of incompetency or misconduct on the part of masters, mates, or engineers of ships, or as to shipwrecks or other casualties affecting ships, subject to the provisions in the last

preceding section of this Act mentioned.—[Merchant Shipping Colonial Inquiries Act, 1882, 45 & 46 Vic., c. 76, s. 4.]

Discipline. Incompetency in certain cases. Board of Trade may cancel or suspend certificates in certain cases.

242. The Board of Trade may suspend or cancel the certificate (whether of competency or service) of any master or mate in the following cases (that is to say)—

(1) If upon any investigation made in pursuance of the last preceding section he is reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness, or tyranny:

(2) If upon any investigation conducted under the provisions contained in the eighth part of this Act, or upon any investigation made by a naval court constituted as hereinafter mentioned, it is reported that the loss or abandonment of or serious damage to any ship, or loss of life, has been caused by his wrongful act or default:

(3) If he is superseded by the order of any Admiralty court, or of any naval court constituted as hereinafter mentioned:

(4) If he is shown to have been convicted of any offence:

(5) If upon any investigation made by any court or tribunal authorised or hereafter to be authorised by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters or mates of ships, or as to shipwrecks or other casualties affecting ships, a report is made by such court or tribunal to the effect that he has been guilty of any gross act of misconduct, drunkenness, or tyranny, or that the loss or abandonment of or serious damage to any ship, or loss of life, has been caused by his wrongful act or default [*and such report is confirmed by the Governor or person administering the Government of such possession*].[1]

And every master or mate whose certificate is cancelled or suspended shall deliver it to the Board of Trade, or as it directs, and in default shall for each offence incur a penalty not exceeding fifty pounds; and the Board of Trade may at any subsequent time grant to any person whose certificate has been cancelled a new certificate of the same or of any lower grade.

Repeal of part of clause V. of s. 242, Merchant Shipping Act, 1854.

242*a*. The words "and such report is confirmed by the Governor or person administering the Government of such possession" in case (V) of the cases enumerated in section two hundred and forty-two of the Merchant Shipping Act, 1854, are hereby repealed, and this repeal shall be deemed to take effect as if the said words had been expressly repealed by the Merchant Shipping Act Amendment Act, 1862. The confirmation of the report required by the said words shall be deemed to have been no longer necessary after the passing of the Merchant Shipping Act Amendment Act, 1862, as a condition precedent to the suspension or cancellation of the certificate of any master, mate, or engineer.—[Merchant Shipping Colonial Inquiries Act, 1882, 45 & 46 Vic., c. 76, s. 7.]

[1] Repealed by Merchant shipping Colonial Inquiries Act, 1882, 45 & 46 Vic., c. 76, s. 7.

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Rules as to cancelling and suspending certificates.

2425. The following rules shall be observed with respect to the cancellation and suspension of certificates (that is to say)—

(1) The power of cancelling or suspending the certificate of a master or mate by the 242nd section of the principal Act conferred on the Board of Trade shall (except in the case provided for by the fourth paragraph of the said section) vest in and be exercised by the local marine board, magistrates, naval court, Admiralty court or other court or tribunal by which the case is investigated or tried, and shall not in future vest in or be exercised by the Board of Trade:

(2) Such power shall extend to cancelling or suspending the certificates of engineers in the same manner as if "certificated engineer" or "certificated engineers" were inserted throughout such section after "master" or "masters":

(3) Every such board, court, or tribunal shall, at the conclusion of the case or as soon afterwards as possible, state in open court the decision to which they may have come with respect to cancelling or suspending certificates, and shall in all cases send a full report upon the case with the evidence to the Board of Trade, and shall also, if they determine to cancel or suspend any certificate, forward such certificate to the Board of Trade with their report:

(4) It shall be lawful for the Board of Trade, if they think the justice of the case require it, to re-issue and return any certificate which has been cancelled or suspended, or shorten the time for which it is suspended, or grant a new certificate of the same or any lower grade in place of any certificate which has been cancelled or suspended.

(5) * * * * * (Repealed by Statute Law Revision Act, 1878, 41 & 42 Vic., c. 79.)

(6) No certificate shall be cancelled or suspended under this section unless a copy of the report or a statement of the case upon which the investigation is ordered has been furnished to the owner of the certificate before the commencement of the investigation, nor, in the case of investigations conducted by justices or a stipendiary magistrate, unless one assessor at least expresses his concurrence in the report.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 23.]

Certificate to be delivered up.

2426. Every master or mate or engineer whose certificate is [*or is to be*][1] suspended or cancelled in pursuance of this Act shall, upon demand of the board, court, or tribunal by which the case is investigated or tried, deliver his certificate to them, or, if it is not demanded by such board, court, or tribunal, shall, upon demand, deliver it to the board of trade, or as it directs, and in default shall for each offence incur a penalty nor exceeding

[1] Repealed by the Shipping Casualties Investigation Act, 1879, 42 & 43 Vic., c. 72, s. 3.

fifty pounds.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 24.] *Discipline.*

242*d*. The powers of suspending or cancelling the certificate of any master, mate, or engineer of a ship, conferred by the provisions of the Merchant Shipping Acts, 1854 to 1880, upon or after any inquiry or investigation held under the provisions of the said Acts, shall be applicable to and be exercised upon or after any inquiry by any court or tribunal authorised by this Act, or authorised by the legislative authority of any British possession under the powers conferred by this Act. Such power of suspension or cancellation shall be exercised by the court or tribunal holding the inquiry in the manner provided by section twenty-three of the Merchant Shipping Act Amendment Act, 1862, and the Board of Trade shall in such cases have all the powers conferred upon them by the said section.—[Merchant Shipping Colonial Inquiries Act, 1882, 45 & 46 Vic., c. 76, s. 5.] *Suspension or cancellation of certificates.*

242*e*. Whenever any inquiry authorised by or in pursuance of this Act has been held, a re-hearing of the case may be ordered, and if an application for such re-hearing has not been made or has been refused, an appeal shall lie from any order of finding of the court or tribunal holding such inquiry to the following court, namely, the Probate, Divorce, and Admiralty Division of Her Majesty's High Court of Justice in England: *Appeal from Colonial courts.*

Provided always that no appeal shall lie from any order or finding in any inquiry into a casualty affecting a ship registered in a British possession, or from any decision respecting the suspension or cancellation of the certificate of a master, mate, or engineer, unless such certificate has been granted under the authority of the Merchant Shipping Act, 1854, or any Act amending the same, or of the Merchant Shipping Colonial Act, 1869.

Any such appeal shall be subject to and conducted in accordance with such conditions and regulations as may from time to time be prescribed by general rules made under section thirty of the Merchant Shipping Act, 1876. —[Merchant Shipping Colonial Inquiries Act, 1882, 45 & 46 Vic., c. 76, s. 6.]

243. Whenever any seamen who has been lawfully engaged or any apprentice to the sea service commits any of the following offences, he shall be liable to be punished summarily as follows (that is to say)— *Offences of seamen and apprentices, and their punishment.*

(1) For desertion he shall be liable [*to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also*][1] to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned, and also, if such desertion takes place abroad, at the discretion of the court, to forfeit all or any part of the wages or emoluments he may earn in any other ship in which he may be employed until his next return to the United Kingdom, and to satisfy any excess of wages paid by the master or owner of the ship from which *Desertion.*

[1] Repealed by Merchant Shipping (Payment of Wages and Rating) Act, 1880, 43 & 44 Vic., c. 16, s. 12.

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he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him:

Neglecting or refusing to join, or to proceed to sea; absence within 24 hours before sailing, and absence without leave.

(2) For neglecting or refusing, without reasonable cause, to join his ship or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of the ship's sailing from any port, either at the commencement or during the progress of any voyage, or for absence at any time without leave, and without sufficient reason, from his ship or from his duty, not amounting to desertion, or not treated as such by the master, he shall be liable [*to imprisonment for any period not exceeding ten weeks, with or without hard labour, and also at the discretion of the court*][1] to forfeit out of his wages a sum not exceeding the amount of two days' pay, and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute:

Quitting without leave before ship is secured.

(3) For quitting the ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay:

Act of disobedience.

(4) For wilful disobedience to any lawful command he shall be liable to imprisonment for any period not exceeding four weeks, with or without hard labour, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding two days' pay:

Continued disobedience.

(5) For continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also, at the discretion of the court, to forfeit for every twenty-four hours continuance of such disobedience or neglect either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute:

Assault on officers.

(6) For assaulting any master or mate he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour:

Combining to disobey.

(7) For combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation on the ship or the progress of the voyage, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour.

Wilful damage and embezzlement.

(8) For wilfully damaging the ship, or embezzling or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the court, to imprisonment for any period not exceeding twelve weeks, with or without hard labour:

Act of smuggling causing loss to owner.

(9) For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the master or owner, he shall be liable to

[1] Repealed by Merchant Shipping (Payment of Wages and Rating) Act, 1880, 43 & 44 Vic., c. 16, s. 12.

pay to such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy.[1] *Discipline.*

243*a*. Whenever any seaman[2] who has been lawfully engaged, or any apprentice to the sea-service, commits any of the following offences, he shall be liable to be punished summarily as follows (that is to say)— *Offences of seamen and apprentices, and their punishments.*

(1) For desertion[3] he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned, and also, if such desertion takes place at any port or place not in India, at the discretion of the court, to forfeit all or any part of the wages or emoluments he may earn in any other ship in which he may be employed until his next return to any port or place in India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts, to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him. *Desertion.*

(2) For neglecting or refusing, without reasonable cause, to join his ship or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of the ship's sailing from any port either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason from his ship or from his duty not amounting to desertion or not treated as such by the master, he shall be liable to imprisonment for any period not exceeding ten weeks, with or without hard labour, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding the amount of two days' pay, and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay or any expenses which have been properly incurred in hiring a substitute. *Neglecting or refusing to join, or to proceed to sea; absence within twenty-four hours before sailing, and absence without leave.*

(3) For quitting the ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay. *Quitting without leave before ship is secured.*

(4) For wilful disobedience to any lawful command he shall be liable to imprisonment for any period not exceeding four weeks, with or without hard labour, and also at the discretion of the court, to forfeit out of his wages a sum not exceeding two days' pay. *Act of disobedience.*

(5) For continued wilful disobedience to lawful commands, or continued wilful negect of duty, he shall be liable to imprisonment for any *Continued disobedience.*

[1] See note to s. 163.

[2] See s. 118 of Act I of 1859 for definition of seaman.

[3] Abandoning the ship *sine animo revertendi* and without just cause. The Two Sisters, 2 W. Rob. 125.

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period not exceeding twelve weeks, with or without hard labour, and also at the discretion of the court[1] to forfeit for every twenty-four hours' continuance of such disobedience or neglect, either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute.

Assault on officers.

(6) For assaulting any master or mate he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour.

Combining to disobey.

(7) For combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour.

Wilful damage and embezzlement.

(8) For wilfully damaging the ship, or embezzling, or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the court, to imprisonment for any period not exceeding twelve weeks, with or without hard labour.

Act of smuggling whereby loss to owner.

(9) For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay to such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 83.]

Survey of ships alleged by seamen to be unseaworthy.

243*b*. Whenever in any proceeding against any seaman or apprentice belonging to any ship for desertion, or for neglecting or refusing to join or to proceed to sea in his ship, or for being absent from or quitting the same without leave, it is alleged by one-fourth of the seamen belonging to such ship, or, if the number of such seamen exceed twenty, by not less than five such seamen, that such ship is by reason of unseaworthiness, overloading, improper loading, defective equipment, or for any other reason, not in a fit condition to proceed to sea, or that the accommodation in such ship is insufficient, the court having cognizance of the case shall take such means as may be in their power to satisfy themselves concerning the truth or untruth of such allegation, and shall for that purpose receive the evidence of the person or persons making the same, and shall have power to summon any other witnesses whose evidence they may think it desirable to hear; the court shall thereupon, if satisfied that the allegation is groundless, proceed to adjudicate, but if not so satisfied shall cause such ship to be surveyed:

Provided that no seaman or apprentice charged with desertion, or with quitting his ship without leave, shall have any right to apply for a survey

[1] 4 Madras Rulings XXIII.

under this section unless previously to his quitting his ship he has complained to the master of the circumstances so alleged in justification.

For the purposes of this section, the court shall require any of the surveyors appointed by the Board of Trade, under the Merchant Shipping Act, 1854, or any person appointed for the purpose by the Board of Trade, or if such surveyor or person cannot be obtained without unreasonable expense or delay, or is not, in the opinion of the court, competent to deal with the special circumstances of the case, then any other impartial surveyor appointed by the court, and having no interest in the ship, her freight, or cargo, to survey the ship, and to answer any question concerning her which the court may think fit to put. Such surveyor or other person shall survey the ship and make his report in writing to the court, including an answer to every question put to him by the court. The court shall cause such report to be communicated to the parties, and unless it is proved to the satisfaction of the court that the opinions expressed in such report are erroneous, the court shall determine the question before them in accordance with those opinions.

For the purposes of such survey, a surveyor shall have all the powers of an inspector appointed by the Board of Trade, under the Merchant Shipping Act, 1854.

The costs (if any) of the survey shall be determined by the Board of Trade according to a scale of fees to be fixed by them, and shall be paid in the first instance out of the Mercantile Marine Fund. If it is proved to the satisfaction of the court that the ship is in a fit condition to proceed to sea, or as the case may be, that the accommodation is sufficient, the costs of the survey shall be paid by the person or persons upon whose demand, or in consequence of whose allegation, the survey was made, and may be deducted by the master or owner out of the wages due or to become due to such person or persons, and shall be paid over to the Board of Trade.

If it is proved that the ship is not in a fit condition to proceed to sea, or, as the case may be, that the accommodation is insufficient, the costs of the survey shall be paid to the Board of Trade by the master or owner.—[Merchant Shipping Act, 1871, 34 & 35 Vic., c. 110, s. 7.]

Power to naval courts to direct survey of ships.

243c. Any naval court may, if they think fit, direct a survey of any ship which is the subject of an investigation held before them, and such survey shall be made in the same way, and the surveyor who makes the same shall have the same powers, as if the survey had been directed by a competent court in the course of proceedings against a seaman or apprentice for desertion or a kindred offence.—[Merchant Shipping Act, 1871, 34 & 35 Vic., c. 110, s. 8.]

Entry of offences to be made in official log, and to be read over or a copy given to the offender, and his reply, if any, to be also entered.

244. Upon the commission of any of the offences enumerated in the last preceding section,[1] an entry thereof shall be made in the official log book, and shall be signed by the master, and also by the mate or one of the crew; and

[1] See s. 243.

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the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or if she is at the time in port, before her departure therefrom, either be furnished with a copy of such entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the said entry has been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid; and in any subsequent legal proceeding the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof the court hearing the case may, at its discretion, refuse to receive evidence of the offence.

Entry of offences to be made in official log, and to be read over or a copy given to the offender, and his reply, if any, to be also entered.

244*a*. Upon the commission of any of the offences enumerated in the last preceding section,[1] an entry thereof shall be made in the official log book, and shall be signed by the master and also by the mate or one of the crew; and the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or if she is at the time in port before her departure therefrom, either be furnished with a copy of such entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the said entry has been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid; and in any subsequent legal proceeding, the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof, the court hearing the case may, at its discretion, refuse to receive evidence of the offence.—[Merchant Seamen's Act, 1859—Act 1 of 1859, s. 84.]

Seamen whom masters of ships are compelled to convey, and persons going in ships without leave, to be subject to penalties for breach of discipline.

245. Every sea-faring person whom the master of any ship is, under the authority of this Act or of any other Act of Parliament, compelled to take on board and convey, and every person who goes to sea in any ship without the consent of the master or owner or other person entitled to give such consent, shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he were a member of the crew and had signed the agreement.

Seamen whom masters of ships are compelled to convey, and persons going in ships without leave, to be subject to penalties for breach of discipline.

245*a*. Every sea-faring person whom the master of any ship is, under the authority of this Act or any law, compelled to take on board and convey, and every person who goes to sea in any ship without the consent of the master or owner or other person entitled to give such consent, shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he were a

[1] See s. 243*a*.

member of the crew and had signed the agreement.—[Merchant Seamen's Act 1859—Act I of 1859, s. 85.]

Discipline.

Deserters and Desertion.

Deserters and Desertion.

Master or officer may apprehend deserter without warrant.

246. *Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to join or deserts from or refuses to proceed to sea in any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master, or any mate, or the owner, ship's husband, or consignee, may, in any place in Her Majesty's dominions, with or without the assistance of the local police officers or constables, who are hereby directed to give the same, if required, and also at any place out of Her Majesty's dominions, if and so far as the laws in force at such place will permit, apprehend him without first procuring a warrant; and may thereupon in any case, and shall in case he so requires and it is practicable, convey him before some court capable of taking cognizance of the matter, to be dealt with according to law; and may, for the purpose of conveying him before such court, detain him in custody for a period not exceeding twenty-four hours or such shorter time as may be necessary, or may, if he does not so require, or if there is no such court at or near the place, at once convey him on board; and if any such apprehension appears to the court before which the case is brought to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband, or consignee who makes the same or causes the same to be made shall incur a penalty not exceeding twenty pounds; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.*—[Repealed by the Merchant Seamen (Payment of Wages and Rating) Act, 1880, 43 & 44 Vic., c. 16, s. 12.]

Master or officer may apprehend deserter without warrant.

246*a*. Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to join, or deserts from or refuses to proceed to sea in any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband, or consignee, may, with or without the assistance of police officers who are hereby directed to give the same if required, apprehend him without first procuring a warrant; and thereupon in any case, and shall, in case he so requires and it is practicable, convey him before some court capable of taking cognizance of the matter, to be dealt with according to law; and may, for the purpose of conveying him before such court, detain him in custody for a period not exceeding twenty-four hours or such shorter time as may be necessary, or may, if he does not so require, or if there is no such court at or near the place, at once convey him on board;

and if any such apprehension appears to the court before which the case is brought to have been made on improper or on insufficient grounds, the master,

Desertion and Insubordination.

mate, owner, ship's husband, or consignee, who makes the same or causes the same to be made, shall incur a penalty not exceeding two hundred rupees; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.—[Merchant Seaman's Act, 1859—Act I of 1859, s. 86.]

Desertion.

246*b*. Whenever any seaman or apprentice not shipped in British India deserts or otherwise absents himself without leave from any ship in which he is engaged to serve, the master of the ship shall, within forty-eight hours of discovering such desertion or absence, report the same to such officer as the Local Government appoints in this behalf, unless in the meantime the deserter or absentee returns.

Any master wilfully neglecting to comply with the provisions of this section may be punished with fine not exceeding one hundred rupees, or imprisonment for a term which may extend to one month, or with both.—[Indian Merchant Seamen's Act, 1876—Act XIII of 1876, s. 6.]

Deserters may be sent on board in lieu of being imprisoned.

247. Whenever any seaman or apprentice is brought before any court on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such court may, if the master or the owner or his agent so requires (*instead of committing the offender to prison*)[1] cause him to be conveyed on board for the purpose of proceeding on the voyage or deliver him to the master or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn.

Deserters may be sent on board in lieu of being imprisoned.

247*a*. Whenever any seaman or apprentice is brought before any court on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such court may, if the master or the owner or his agent so requires, instead of committing the offender to prison, cause him to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence, to be paid by the offender, and if necessary to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn.—[Merchant Seaman's Act, 1859—Act I of 1859, s. 87.]

[1] Repealed by Merchant Seaman (Payment of Wages and Rating) Act, 1880, 43 & 44 Vic., 16, s. 12.

247*b*. The following provisions shall from the commencement of this Act have operation within the United Kingdom :— *Desertion and Desertion.*

A seaman or apprentice to the sea service shall not be liable to imprisonment for deserting or for neglecting or refusing without reasonable cause to join his ship or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of his ship's sailing from any port, or for absence at any time without leave and without sufficient reason from his ship or from his duty. *Desertion and absence without leave.*

Whenever either at the commencement or during the progress of any voyage any seaman or apprentice neglects or refuses to join or deserts from or refuses to proceed to sea in any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband, or consignee may, with or without the assistance of the local police officers or constables, who are hereby directed to give the same, if required, convey him on board: Provided that if the seaman or apprentice so requires he shall first be taken before some court capable of taking cognizance of the matters to be dealt with according to law; and that if it appears to the court before which the case is brought that the seaman or apprentice has been conveyed on board or taken before the court on improper or insufficient grounds, the master, mate, owner, ship's husband, or consignee, as the case may be, shall incur a penalty not exceeding twenty pounds, but such penalty, if inflicted, shall be a bar to any action for false imprisonment.

If a seaman or apprentice to the sea service intends to absent himself from his ship or his duty, he may give notice of his intention, either to the owner or to the master of the ship, not less than forty-eight hours before the time at which he ought to be on board his ship; and in the event of such notice being given, the court shall not exercise any of the powers conferred on it by section two hundred and forty-seven of the Merchant Shipping Act, 1854. 17 & 18 Vic., c. 104.

Subject to the foregoing provision of this section, the powers conferred by section two hundred and forty-seven of the Merchant Shipping Act, 1854, may be exercised, notwithstanding the abolition of imprisonment for desertion and similar offences, and of apprehension without warrant. 17 & 18 Vic., c. 104.

Nothing in this section shall affect section two hundred and thirty-nine of the Merchant Shipping Act, 1854.—[The Merchant Seamen (Payment of Wages and Rating) Act, 1880, 43 & 44 Vic., c. 16, s. 10.][1] 17 & 18 Vic., c. 104.

248. *If any seaman or apprentice is imprisoned on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and if during such imprisonment and before his engagement is at an end,* Seamen imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.

[1] This section is repealed so far as it is applicable to Fishing Boats by Merchant Shipping (Fishing Boats) Act, 1883, 46 & 47 Vic., c. 41, s. 51.

Desertion and Breach of Discipline.

his services are required on board his ship, any justice may, at the request of the master, or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship; or to the owner or his agent, to be by them so conveyed; notwithstanding that the termination of the period for which he was sentenced to imprisonment has not arrived.—[Repealed by the Merchant Seamen (Payment of Wages and Rating) Act, 1880, 43 & 44 Vic., c. 16, s. 12.]

Seamen imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.

248*a*. If any seaman or apprentice is imprisoned on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any magistrate may, at the request of the master or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship or to the owner or his agent, to be by them so conveyed, notwithstanding that the termination of the period for which he was sentenced to imprisonment has not arrived.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 88.]

Power to deal with imprisoned seamen in accordance with section 88, Act I of 1859.

248*b*. If any seaman or apprentice not shipped in British India is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, any magistrate may deal with him in the same way as he may deal with a seaman or apprentice imprisoned on any of the grounds mentioned in section 88 of Act No. I of 1859 *(for the amendment of the law relating to Merchant Seamen)*.—[Indian Merchant Seamen's Act, 1876—Act XIII of 1876, s. 7.]

Rules as to imprisoned seamen.

248*c*. If any seaman or apprentice not shipped in British India is imprisoned on a complaint made by or on behalf of the master or owner of the ship in which he is engaged to serve, on any of the grounds mentioned in the said Act No. I of 1859, section 88, or for any offence for which he has [illegible]n sentenced to imprisonment for a term not exceeding one month, the [illegible]ing rules shall be observed :—

[illegible]) No person shall, while such imprisonment lasts, without the previous [illegible]on in writing of the Local Government or of such officer as it appoints [illegible]s behalf, engage any Native of India to serve as a seaman on board [illegible]hip ;

(2) the Local Government, or such officer as it appoints in this behalf, may tender such seaman or apprentice to the master or owner of the ship in which he is engaged to serve, and if such master or owner, without assigning reasons satisfactory to the Local Government or to such officer as aforesaid, refuse to receive him on board, may require such master or owner to deposit in the local shipping office (1) the wages due to such seaman or apprentice, and his money, clothes, and other effects; and (2) such sum as may in the

opinion of the Local Government or of such officer as aforesaid be sufficient to defray the cost of the passage of the said seaman or apprentice to the port at which he was shipped, according to the scale of cost usual in the case of distressed seamen.

Desertion and Deserters.

Whoever wilfully disobeys the prohibition contained in clause (a) of this section shall be liable to imprisonment for a term which may extend to three months, or to fine not exceeding one thousand rupees, or to both.

Any master or owner refusing or neglecting to deposit such wages, money, clothes, and other effects, or such sum as aforesaid, may be punished with fine not exceeding five hundred rupees, and in default of payment of such fine, to imprisonment for a term which may extend to three months.—[Indian Merchant Seamen's Act, 1876—Act XIII of 1876, s. 8.]

Entries and certificates of desertion abroad to be copied, sent home, and admitted in evidence.

249. In all cases of desertion from any ship in any place abroad, the master shall produce the entry of such desertion in the official log book to the person or persons hereby required to indorse on the agreement a certificate of such desertion; and such person or persons shall thereupon make and certify a copy of such entry, and also a copy of the said certificate of desertion; and if such person is a public functionary, he shall, and in other cases the said master shall, forthwith transmit such copies to the Registrar General of Seamen in England; and the said Registrar shall, if required, cause the same to be produced in any legal proceeding; and such copies, if purporting to be so made and certified as aforesaid, and certified to have come from the custody of the said Registrar, shall in any legal proceeding relating to such desertion be received as evidence of the entries therein appearing.

Entries and certificates of desertion abroad to be copied, sent home, and admitted in evidence.

249a. In all cases of desertion from any ship registered at a port or place in India while such ship is at any place out of India, the master shall produce the entry of such desertion in the official log book to the person or persons required by the Merchant Shipping Act, 1854, to endorse on the agreement a certificate of such desertion; and such person or persons shall thereupon make and certify a copy of such entry and also a copy of the said certificate of desertion;

the master shall forthwith transmit such copies to the shipping master at the port where such seaman was engaged, who shall, if required, cause the same to be produced in any legal proceeding; and such copies, if purporting to be so made and certified as aforesaid, shall in any legal proceeding relating to such desertion be received as evidence of the entries therein appearing.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 89.]

Liabilities for proving desertion, so far as concerns forfeiture of wages.

250. Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that such seaman or apprentice was duly engaged in or that he belonged to the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, or if such voyage was to terminate in the United Kingdom, and the ship has not returned, that he is absent from her, and that an entry of the

Desertion and Desertion.

Questions of forfeitures may be decided in suits for wages.

254a. Any question concerning the forfeiture of or deductions from the wages of any seaman or apprentice may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 94.]

Penalty for false statement as to last ship or name.

255. If any seaman on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall incur a penalty not exceeding five pounds; and such penalty may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses (if any) occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Act.

Penalty for false statement as to last ship or name.

255a. If any seaman on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall incur a penalty not exceeding fifty rupees; and such penalty may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses (if any) occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Act.—[Merchant Seaman's Act, 1859,—Act I of 1859 s. 95.]

Fines to be deducted from wages and paid to shipping-master.

256. Whenever any seaman commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, an entry thereof shall be made in the official log book, and a copy of such entry shall be furnished or the same shall be read over to the offender, and an entry of such reading over, and of the reply (if any) made by the offender, shall be made in the manner and subject to the conditions hereinbefore specified with respect to the offences against discipline specified in and punishable under this Act; and such fine shall be deducted and paid over as follows: (that is to say) if the offender is discharged in the United Kingdom, and the offence and such entries in respect thereof as aforesaid are proved, in the case of a foreign-going ship, to the satisfaction of the shipping master before whom the offender is discharged, and in the case of a home-trade ship, to the satisfaction of the shipping master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender, and pay the same over to such shipping master; and if before the final discharge of the crew in the United Kingdom any such offender as aforesaid enters into any of Her Majesty's ships, or is discharged abroad, and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters, or of the Consular officer, officer of Customs, or other person by whose sanction he is so

discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log-book (if any), and signed by such officer or other person; and on the return of the ship to the United Kingdom, the master or owner shall pay over such fine, in the case of foreign-going ships, to the shipping master before whom the crew is discharged, and in the case of home-trade ships, to the shipping-master at or nearest to the place at which the crew is discharged; and if any master or owner neglects or refuses to pay over any such fine in manner aforesaid, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him: Provided that no act of misconduct for which any such fine as aforesaid has been inflicted and paid shall be otherwise punished under the provisions of this Act.

Deducted and Recovered.

256*a*. Whenever any seaman commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, an entry thereof shall be made in the official log book, and a copy of such entry shall be furnished or the same shall be read over to the offender, and an entry of such reading over, and of the reply (if any) made by the offender, shall be made in the manner and subject to the conditions hereinbefore specified with respect to the offences against discipline specified in and punishable under this Act;

Fines to be deducted from wages and paid to shipping master.

and such fine shall be deducted and paid over as follows: (that is to say) if the offender is discharged at any port or place in India, and the offence and such entries in respect thereof as aforesaid are proved, in the case of a foreign-going ship, to the satisfaction of the shipping master before whom the offender is discharged, and in the case of a home-trade ship, to the satisfaction of the shipping master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such shipping master;

and if before the final discharge of the crew in India any such offender as aforesaid enters into any of Her Majesty's ships or is discharged at any place not in India, and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters, or of the Consular officer, officer of Customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log book (if any), and signed by such officer or other person; and on the return of the ship to India the master or owner shall pay over such fine, in the case of foreign-going ships, to the shipping master before whom the crew is discharged, and in the case of home-trade ships, to the shipping master at or nearest to the place at which the crew is discharged;

and if any master or owner neglects or refuses to pay over any such fine in manner aforesaid, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him: Provided that no act of misconduct for which any such fine as aforesaid has been

Deserters and Desertion.

inflicted and paid shall be otherwise punished under the provisions of this Act.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 96.]

Penalties regarding Desertion.

Penalties regarding Desertion.

Penalty for enticing to desert and harbouring deserters.

257. Every person who by any means whatever persuades or attempts to persuade any seaman or apprentice to neglect or refuse to join or to proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, shall for each such offence in respect of each such seaman or apprentice incur a penalty not exceeding ten pounds; and every person who wilfully harbours or secretes any seaman or apprentice who has deserted from his ship, or who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe such seaman or apprentice to have so done, shall for every such seaman or apprentice so harboured or secreted incur a penalty not exceeding twenty pounds.

Penalty for enticing to desert and harbouring deserters.

257*a*. Every person who by any means whatever persuades or attempts to persuade any seaman or apprentice to neglect or refuse to join or proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, shall for each such offence in respect of each such seaman or apprentice incur a penalty not exceeding one hundred rupees; and every person who wilfully harbours or secretes any seaman or apprentice who has deserted from his ship, or who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe such seaman or apprentice to have so done, shall for every such seaman or apprentice so harboured or secreted incur a penalty not exceeding one hundred rupees.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 97.]

Penalty for concealing deserters.

257*b*. Whoever in any place within the said town[1] wilfully harbours or conceals any seaman or apprentice belonging to any vessel other than a vessel of the navy of the Queen, knowing or having reason to believe such seaman or apprentice to be a deserter, shall be liable on summary conviction before a magistrate to a fine not exceeding one hundred rupees.—[The Calcutta Police Act, 1866—Ben: Act IV of 1866, s. 42.]

257*c*. Whereas by the sixteenth article of a treaty of commerce and navigation between Her Majesty and the Queen of Portugal, signed at Lisbon, on the third day of July one thousand eight hundred and forty-two, the ratifications whereof were exchanged at Lisbon on the thirtieth day of the same month, it was agreed "that if any apprentices or sailors should desert "from vessels belonging to the subjects or either of the high contracting parties "while such vessels were within any port in the territory of the other party, "the magistrates of such port and territory should be bound to give every "assistance in their power for the apprehension of such deserters, on application to that effect being made by the consul of the party concerned, or by "the deputy or representative of the consul, and no public body, civil or

[1] Calcutta.

"religious, should protect or harbour such deserters;" and by the nineteenth article of the said treaty it was further agreed, "that the said treaty should be "in force for the term of ten years from the date thereof, and further until the "end of twelve months after either of the high contracting parties should "have given notice to the other of its intention to terminate the same each "of the high contracting parties reserving to itself the right of giving such "notice to the other at the end of the said term of ten years, or at any "subsequent time; and it was thereby agreed between them that at the "expiration of twelve months after such notice should have been received by "either party from the other the said treaty and all the provisions thereof "should altogether cease and determine:" And whereas it is expedient that provision should be made for carrying the said treaty into effect: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that in case any apprentice or sailor shall desert from any vessel belonging to any Portuguese subject or subjects, while such vessel shall be within any port in any of Her Majesty's dominions, or the territories under the Government of the East India Company, all justices of the peace and other magistrates and officers of justice within their several jurisdictions shall, on application being made by a Portuguese consul, or his deputy or representative, according to the provisions of the said treaty, aid in apprehending such apprentice or sailor; and upon any such application it shall be lawful for any justice of the peace, or other magistrate or person having power to commit for trial persons accused of crimes against the laws of that part of Her Majesty's dominions or territories in which such apprentice or sailor shall be found, to issue his warrant for the apprehension of such apprentice or sailor, and upon due proof of such desertion as aforesaid, to order such apprentice or sailor to be conveyed on board the said vessel, or to be delivered to the master, mate, or owner of such vessel, or his agent, for the purpose of being so conveyed; and it shall be lawful for such master, mate, owner, or agent, or any other person, in pursuance of the order in that behalf, to convey such apprentice or sailor accordingly.

Penalties regarding Desertion.

Deserters from Portuguese vessels in ports in her Majesty's dominions or India to be apprehended on application of Portuguese consul and conveyed back to the vessel or delivered to the master, &c.

And be it enacted,[1] that no person shall protect or harbour any apprentice or sailor who shall have deserted as aforesaid, knowing or having reason to believe such apprentice or sailor to have so deserted; and every person so offending shall for every such apprentice or seaman so protected or harboured forfeit and pay the sum of ten pounds; [*and such penalty shall be recovered, paid and applied, in like manner as the penalty imposed by an Act passed in the eighth year of Her Majesty, intituled "An Act to amend and consolidate the laws relating to Merchant Seamen, and for keeping a register of seamen," upon a person harbouring or secreting a seaman or apprentice having deserted from his ship; and the provisions of such Act applicable to such last-mentioned*

Penalty for protecting deserters.

Penalty to be recoverable under 7 & 8 Vic., c. 112.

[1] This Act is only in force during the continuance of the treaty of 3rd July 1842.

Proviso regarding Executions.

penalty, and to the proceedings for the recovery thereof, shall be applicable to the penalty, imposed by this Act, and to the proceedings for the recovery thereof].—[*Repealed by Stat. Law Rev.* (*Substituted Enactments*) *Act, 1876.*]

[Apprehension of Portuguese Deserters—12 & 13 Vic., c. 25, preamble & s. 2.]

The operation of this Act in any colony may be suspended while any enactment of the colonial legislature carrying out the objects of this Act is in force.

257*d*. And be it enacted[1] that if by any law or ordinance to be hereafter made by the local legislature of any British colony or possession abroad provision shall be made for carrying into complete effect within such colony or possession the objects of this present Act, by the substitution of some other enactment in lieu thereof, then it shall be competent to Her Majesty, with the advice of Her Privy Council (if to Her Majesty in Council it shall seem meet, but not otherwise), to suspend the operation within any such colony or possession of this present Act, so long as such substituted enactment shall continue in force there, and no longer.—[Apprehension of Portuguese Deserters—12 & 13 Vic., c. 25, s. 3.]

Penalty on master in certain cases if a deserter be concealed on board his ship.

257*e*. If it shall appear that any officer or soldier being a deserter from the said forces[2] has been concealed on board any merchant vessel, and that the master or person in charge of such vessel for the time being, though ignorant of the fact of such concealment, might have known of the same, but for some neglect of his duty as such master or person, or from the want of proper discipline on board his vessel, such master or person shall be liable to a fine not exceeding five hundred rupees:

Proviso.

Charge may be in the alternative.

Provided always that no conviction for such offence as is hereinbefore described shall be lawful unless the same shall be stated in the charge which the party is called upon to answer; and in such charge it shall be lawful to state in the alternative that the party has either knowingly harboured or concealed a deserter on board his vessel, or has by neglect of duty, or by reason of the want of proper discipline on board the vessel, allowed such deserter to be so concealed.—[European Deserters' Act—Act XI of 1856, s. 1.]

Jurisdiction under European Deserters' Act.

257*f*. Any person, whether a European British subject or not, who shall be guilty of an offence punishable under this Act, shall be punished for the same by any justice of the peace for any of the presidency towns of Calcutta, Madras, and Bombay, magistrate, or person lawfully exercising the powers of a magistrate in any port within the territories of the East India Company within whose jurisdiction the offence may have been committed or such person may have been apprehended or found, whether the offence shall have been committed within the local limits of the jurisdiction of such officer or not; and any person hereby made punishable by a justice of the peace shall be punishable on summary conviction.—[European Deserters' Act—Act XI of 1856, s. 2.]

Commanding officer or magistrate may issue warrants for apprehension.

257*g*. Whenever, on information given on oath or solemn affirmation where by law a solemn affirmation may be used instead of an oath, to the command-

[1] This Act is only in force during the continuation of the treaty of 3rd July 1842.
[2] Land Forces in the service of Her Majesty in India.

ing officer of any fort, garrison, station, regiment, or detachment at any port or place within the territories of the East India Company, in which no person lawfully exercising magisterial powers can be found, which oath or affirmation the several persons above named shall severally under this Act have power to administer;

Penalties regarding Deserters.

Commission of deserters, and search ships.

or whenever, on such information as aforesaid given to any justice of the peace, magistrate, or person lawfully exercising the powers of a magistrate, having jurisdiction within such port or place,

there shall appear reason to suspect that any European officer or soldier belonging to the said forces, who may have deserted or be absent without leave, is on board any ship, vessel, or boat, or is concealed on shore at any such port or place within the territories of the East India Company, it shall be lawful for such commanding officer or justice of the peace, magistrate, or person lawfully exercising the powers of a magistrate as aforesaid, to issue a warrant authorising the person or persons to whom such warrant may be addressed to enter into and search, at any time of the day or night, any such ship, vessel, or boat, or any house or place on shore, and to apprehend any such officer or soldier, and to detain him in custody in order to his being dealt with according to law.—[European Deserters' Act—Act XI of 1856, s. 5.]

Fine for harbouring or concealing deserters from merchant vessels.

257*h*. Whoever in any place within any of the said towns[1] wilfully harbours or conceals any seaman or apprentice belonging to a merchant vessel, knowing or having reason to believe such seaman or apprentice to be a deserter, shall be liable to a fine not exceeding one hundred rupees.—[Police Act (Presidency Towns), 1856—Act XIII of 1856, s. 54.]

Penalty for harbouring or concealing deserters from merchant vessels.

257*i*. Whoever wilfully harbours or conceals any seaman or apprentice belonging to a merchant vessel, knowing or having reason to believe such seaman or apprentice to be a deserter, shall be liable to a fine not exceeding one hundred rupees.—[An Act for the Station Howrah—Act XXI of 1857, s. 6.]

Foreign deserters.

257*j*. Any magistrate, upon an application being made to him by the consul of any foreign power to which the Foreign Deserters' Act, 1852, has, by an order of Her Majesty in Council, been, or shall hereafter be, declared to be applicable, or by the representative of such consul, and upon complaint on oath of the desertion of any seaman, not being a slave, from any ship of such foreign power, may, until a revocation of such order in council has been publicly notified, issue his warrant for the apprehension of any such deserter;

and, upon due proof of the desertion, may order him to be conveyed on board the vessel to which he belongs, or, at the instance of the consul, to be detained in custody till the vessel is ready to sail, or, if the vessel has sailed, for a reasonable time not exceeding one month:

Provided that a deposit be first made of such sum as the magistrate deems necessary for the subsistence of the deserter during such detention:

[1] Calcutta, Madras, and Bombay, but the Act has now been repealed as far as Calcutta and Madras are concerned by Ben: Act IV of 1866 and Mad: Act VIII of 1867 respectively.

Provided also that the detention of such deserter shall not be continued beyond twelve weeks.—[The Indian Ports Act, 1875—Act XII of 1875, s. 74.]

Her Majesty may by order in council declare that deserters from foreign merchant ships may be apprehended and given up.

257*k*. Whenever it is made to appear to Her Majesty that due facilities are or will be given for recovering and apprehending seamen who desert from British merchant ships in the territories of any foreign power, Her Majesty may, by order in council stating that such facilities are or will be given, declare that seamen, not being slaves, who desert from merchant ships belonging to a subject of such power, when within Her Majesty's dominions . . . . . shall be liable to be apprehended and carried on board their respective ships, and may limit the operation of such order, and may render the operation thereof subject to such conditions and qualifications, if any, as may be deemed expedient.—[Apprehension of Foreign Deserters—15 & 16 Vic., c. 26, s. 1.]

Upon publication of order in council, justices, &c., shall aid in apprehending deserters from such ships and cause them to be conveyed on board ship.

257*l*. Upon such publication as hereinafter mentioned of any such order in council, then, during such time as the same remains in force, and subject to such limitations and qualifications, if any, as may be therein contained, every justice of the peace or other officer having jurisdiction in the case of seamen who desert from British merchant ships in Her Majesty's dominions . . . . . shall, on application being made by a consul of the foreign power to which such order in council relates, or his deputy or representative, aid in apprehending any seaman or apprentice who deserts from any merchant ship belonging to a subject of such power, and may for that purpose, upon complaint on oath duly made, issue his warrant for the apprehension of any such deserter, and, upon due proof of the desertion, order him to be conveyed on board the vessel to which he belongs, or to be delivered to the master or mate of such vessel, or to the owner of such vessel or his agent, to be so conveyed; and thereupon it shall be lawful for the person ordered to convey such deserter, or for the master or mate of such vessel, or the owner or his agent (as the case may require), to convey him on board accordingly.—[Apprehension of Foreign Deserters—15 & 16 Vic., c. 26, s. 2.]

Penalty on harbouring deserters.

257*m*. If any person protects or harbours any deserter who is liable to be apprehended under this Act, knowing or having reason to believe that he has deserted, such person shall for every offence be liable to a penalty not exceeding ten pounds; and every such penalty shall be recovered, paid, and applied in the same manner as penalties for harbouring or protecting deserters from British merchant ships.—[Apprehension of Foreign Deserters—15 & 16 Vic., c. 26, s. 3.]

Penalty for obtaining passage surreptitiously.

258. Any person who secretes himself and goes to sea in any ship without the consent of either the owner, consignee, or master, or of a mate, or of any person in charge of such ship, or of any other person entitled to give such consent, shall incur a penalty not exceeding twenty pounds, or be liable to imprisonment, with or without hard labour, for any period not exceeding four weeks.

Penalty for ob...

258*a*. Any person who secretes himself and goes to sea in any ship without

the consent of either the owner, consignee, or master, or of a mate, or of any person in charge of such ship, or of any other person entitled to give such consent, shall incur a penalty not exceeding two hundred rupees, or be liable to imprisonment, with or without hard labour, for any period not exceeding four weeks.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 98.]

Penalties regarding Desertion.

taking passage surreptitiously.

259. If during the progress of a voyage the master is superseded, or for any other reason quits the ship, and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody, and shall in default incur a penalty not exceeding one hundred pounds; and such successor shall immediately on assuming the command of the ship enter in the official log a list of the documents so delivered to him.

On change of masters, documents hereby required to be handed over to successor.

259a. If during the progress of a voyage the master of any ship registered at any port or place in India is superseded, or for any other reason quits the ship, and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody, and shall in default incur a penalty not exceeding one thousand rupees; and such successor shall, immediately on assuming the command of the ship, enter in the official log a list of the documents so delivered to him.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 99.]

On change of masters, documents hereby required to be handed over to successor.

Discipline relating to Convoys and Foreigners.

Discipline (Convoys and Foreigners).

259b. If the master or other person, having the command of any ship of any of Her Majesty's subjects under the convoy of any of Her Majesty's ships-of-war, wilfully disobeys any lawful signal, instruction, or command of the commander of the convoy, or without leave deserts the convoy, he shall be liable to be proceeded in against the High Court of Admiralty at the suit of Her Majesty in her office of Admiralty, and upon conviction to be fined, in the discretion of the court, any sum not exceeding five hundred pounds, and to suffer imprisonment for such time not exceeding one year, as the court may adjudge.—[Naval Prize Act, 1864, 27 & 28 Vic., c. 25, s. 16.]

Punishment of masters of merchant vessels under convoy disobeying orders or deserting convoy.

259c. The officers of all ships of Her Majesty appointed for the convoy and protection of any ships or vessels shall diligently perform their duty without delay, according to their instructions in that behalf; and every officer who shall fail in his duty in this respect, and shall not defend the ships and goods under his convoy, without deviation to any other objects, or shall refuse to fight in their defence if they are assailed, or shall cowardly abandon and expose the ships in his convoy to hazard, or shall demand or exact any money or other reward from any merchant or master for convoying any ships or vessels intrusted to his care, or shall misuse the masters or mariners thereof, shall make such reparation in damages to the merchants, owners, and others as the Court of Admiralty may adjudge, and also shall be punished criminally according to the nature of his offence, by death, or such other punishment as

Penalty for not taking care of and defending ships under convoy, or for exacting reward from merchants or masters, or ill-treating masters or mariners.

Discipline (Convoys and Foreigners).

is hereinafter mentioned.—[Naval Discipline Act, 1866, 29 & 30 Vic., c. 109, s. 30.]

Master or merchant vessel to obey orders of convoying officer.

259*d*. Every master or other officer in command of any merchant or other vessel under the convoy of any ship of Her Majesty shall obey the commanding officer thereof in all matters relating to the navigation or security of the convoy, and shall take such precautions for avoiding the enemy as may be directed by such commanding officer; and if he shall fail to obey such directions, such commanding officer may compel obedience by force of arms, without being liable for any loss of life or of property that may result from his using such force.—[Naval Discipline Act, 1866, 29 & 30 Vic., c. 109, s. 31.]

Arrival of Foreigners in India to be reported.

Arrival of foreigners in India to be reported.

259*e*. The provisions of the last two preceding sections[1] shall not extend to any person being the master or commander of a vessel or employed therein; but if any such person shall be in any part of British India in which all the provisions of this Act are for the time being in force, after he shall have ceased to be actually employed in a vessel, he shall forthwith report himself in manner aforesaid.—[Foreigners Act—Act III of 1864, s. 8.]

Foreigners, being masters of vessels or employed therein, when to report.

Certain officers may board vessels to ascertain whether foreigners are on board.

259*f*. It shall be lawful for the commissioner of police, or for the magistrate of the district, or for any officer appointed to receive reports as mentioned in the sixth section of this Act, or for any police officer under the authority of such commissioner or magistrate, to enter any vessel in any port or place within British India in which all the provisions of this Act may for the time being be in force, in order to ascertain whether any foreigner bound to report his arrival under the said section 6 of this Act is on board of such vessel;

and it shall be lawful for such commissioner of police, magistrate, or other officer as aforesaid, to adopt such means as may be reasonably necessary for that purpose;

Master of vessel to furnish list of passengers, and

and the master or commander of such vessel shall also, before any of the passengers are allowed to disembark, if he shall be required so to do by such

[1] Sections 6 and 7, Act III of 1864 are as follows:—

Every foreigner on arriving in any part of British India in which all the provisions of this Act are for the time being in force under an order issued as provided in the last preceding section, from any port or place not within British India, or from any port or place within British India where all the provisions of this Act are not in force, shall, if he arrive at a presidency town, forthwith report himself to the commissioner of police of such town, or, if he arrive at any other place, then he shall forthwith report himself to the magistrate of the district, or to such other officer as shall be appointed to receive such reports, by the Governor General of India in Council or by the Local Government of such place.

The report shall be in writing, and shall be signed by the person reporting himself, and shall specify his name or names, the nation to which he belongs, the place from which he shall have come, the place or places of his destination, the object of his pursuit, and the date of his arrival in such presidency town or other place.

The report shall be recorded by the officer to whom it is made.

[illegible] of police, magistrate, [illegible] [illegible] [illegible] time [illegible] to sanitary [illegible] of the passengers on board [illegible] [illegible] which they [illegible] and the [illegible] [illegible] [illegible] [illegible] [illegible] questions tending to [illegible] [illegible] [illegible] [illegible] [illegible]

Discipline (Marine).

Penalties for detention of letters on board inward-bound vessel.

259*i*. Every person being either the commander of a vessel inward-bound or any one on board such vessel, who shall, within British India, knowingly have in his possession any letter not excepted from the privilege of the post-office, after any part of the letters on board the said vessel shall have been sent to the post office, shall forfeit for every such letter a sum not exceeding fifty rupees, whether the letter be in the baggage or on the person of the offender, or otherwise in his custody;

and every such person who shall detain any such letter after demand made for the same by an officer of the post-office, shall forfeit for every such letter a sum not exceeding one hundred rupees.—[Indian Post Office Act, 1866—Act XIV of 1866, s. 32.]

Bounty money.

259*k*. For every letter delivered by the commander of any ship in conformity with the directions of section 31 of this Act, the officer in charge of the post office shall pay to the said commander the sum of one anna; and the sum of one anna shall be chargeable as postage on such letter, in addition to any other postage chargeable thereon under this Act:

Limitation of claim thereto.

Provided that no payment shall be made to the commander of any vessel on account of the delivery of any letter, unless the claim of such commander shall be preferred before the vessel leaves the place at which the letter was delivered, or before the expiration of two months from the date of the arrival of such vessel:

Saving of letters, &c., conveyed in mail ships.

Provided also that nothing contained in section 31[1] and the former part of this section of this Act shall extend to any letter or mail-bag, or box or packet conveyed by any mail ship or mail steamer recognised as such by the Governor General of India in Council.—[Indian Post Office Act, 1866—Act XIV of 1866, s. 33.]

Commanders of outward-bound vessels to receive mails on board.

259*l*. The commander of every vessel leaving any place in British India by sea shall receive on board of such vessel every letter and packet which he shall be required so to receive by any officer of the post office, and shall give a receipt for such letter or packet; and every commander of a vessel who shall wilfully disobey any direction contained in this section, shall be punished with a fine not exceeding one thousand rupees.—[Indian Post Office Act, 1866—Act XIV of 1866, s. 34.]

Persons expressly forbidden to collect, carry, or deliver letters.

259*m*. Wheresoever, within British India, posts or postal communications are or shall be established by the Government of India, the following persons are expressly forbidden to collect, carry, tender, or deliver any letter or letters, or to receive any letter for the purpose of carrying or delivering the same, although they shall not receive hire or reward for so doing (that is to say)—

(1) common carriers of passengers or goods, and their drivers, servants or agents, except letters solely concerning goods in their carriages;

(2) owners and commanders of ships, steam-boats or other vessels passing on any river or canal, or to or from any port in British India, and their servants or agents, except letters solely concerning goods on board.—[Indian Post Office Act, 1866—Act XIV of 1866, s. 6.]

[1] S. 259*i*.

259*n*. Every person who shall carry, receive, tender, or deliver a letter, or collect letters contrary to the provisions of section 6 of this Act, shall forfeit for every such letter a sum not exceeding fifty rupees.—[The Indian Post Office Act, 1866—Act XIV of 1866, s. 46, cl. 6.]

Discipline (Mails).

Penalty for breach of provisions of section 6.

259*o*. If any person induces any other person to quit Her Majesty's dominions or to embark on any ship within Her Majesty's dominions under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state,—

Discipline (enlistment).

Penalty on embarking persons under false representations as to service.

he shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.—[Foreign Enlistment Act, 1870, 33 & 34 Vic., c. 90, s. 6.]

259*p*. If the master or owner of any ship without the license of Her Majesty, knowingly either takes on board, or engages to take on board, or has on board such ship within Her Majesty's dominions any of the following persons, in this Act referred to as illegally enlisted persons (that is to say)—

Penalty on taking illegally enlisted persons on board ship.

(1) any person who, being a British subject within or without the dominions of Her Majesty, has, without the license of Her Majesty, accepted or agreed to accept any commission or engagement in the military or naval service of any foreign state at war with any friendly state;

(2) any person, being a British subject, who, without the license of Her Majesty, is about to quit Her Majesty's dominions with intent to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state;

(3) any person who has been induced to embark under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state:

such master or owner shall be guilty of an offence against this Act, and the following consequences shall ensue (that is to say),—

(1) the offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour; and

(2) such ship shall be detained until the trial and conviction or acquittal of the master or owner, and until all penalties inflicted on the master or owner have been paid, or the master or owner has given security for the payment of such penalties to the satisfaction of two

Penalties (continued).

justices of the peace, or other magistrate or magistrates having the authority of two justices of the peace; and

(3) all illegally enlisted persons shall immediately on the discovery of the offence be taken on shore, and shall not be allowed to return to the ship.—[Foreign Enlistment Act, 1870, 33 & 34 Vic., c. 90, s. 7.]

Penalties on persons not subjects for the time being.

259q. If any person within Her Majesty's dominions, without the license of Her Majesty, does any of the following acts (that is to say)—

(1) builds or agrees to build, or causes to be built, any ship, with intent or knowledge, or having reasonable cause to believe, that the same shall be or will be employed in the military or naval service of any foreign state at war with any friendly state; or

(2) issues or delivers any commission for any ship with intent or knowledge, or having reasonable cause to believe, that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state; or

(3) equips any ship with intent or knowledge, or having reasonable cause to believe, that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state; or

(4) despatches, or causes or allows to be despatched, any ship with intent or knowledge, or having reasonable cause to believe, that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state;

such person shall be deemed to have committed an offence against this Act, and the following consequences shall ensue:—

(1) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour;

(2) The ship in respect of which any such offence is committed, and her equipment, shall be forfeited to Her Majesty:

Provided that a person building, causing to be built, or equipping a ship in any of the cases aforesaid, in pursuance of a contract made before the commencement of such war as aforesaid, shall not be liable to any of the penalties imposed by this section in respect of such building or equipping if he satisfies the conditions following (that is to say)—

(1) if forthwith upon a proclamation of neutrality being issued by Her Majesty he gives notice to the Secretary of State that he is so building, causing to be built, or equipping such ship, and furnishes such particulars of the contract and of any matters relating to, or done, or to be done under the contract as may be required by the Secretary of State;

(2) if he gives such security, and takes and permits to be taken such other measures, if any, as the Secretary of State may prescribe for

ensuring that such ship shall not be despatched, delivered, or removed without the license of Her Majesty until the termination of such war as aforesaid.—[Foreign Enlistment Act, 1870, 33 & 34 Vic., c. 90, s. 8.]

Provision as to building in case of foreign state.

259*b*. Where any ship is built by order of or on behalf of any foreign state when at war with a friendly state, or is delivered to or to the order of such foreign state, or any person who to the knowledge of the person building is an agent of such foreign state, or is paid for by such foreign state or such agent, and is employed in the military or naval service of such foreign state, such ship shall, until the contrary is proved, be deemed to have been built with a view to being so employed, and the burden shall lie on the builder of such ship of proving that he did not know that the ship was intended to be so employed in the military or naval service of such foreign state.—[Foreign Enlistment Act, 1870, 33 & 34 Vic., c. 90, s. 9.]

Penalty (Commutation).

Penalty on importing convicts into India.

259*c*. Every master of a ship landing or allowing to land in any part of British India any person of European extraction who has been convicted in any other part of Her Majesty's dominions of felony, or of an offence which, if committed in England, would be felony, shall, on conviction before a magistrate, be liable, for every such person so landed or allowed to land, to pay a fine not exceeding five hundred rupees and not less than one hundred rupees, and, in default of payment, to imprisonment for any term not exceeding two months,

unless the defendant satisfy the magistrate by evidence (which the defendant is hereby declared competent to give) that he had made due enquiry as to the person so landed, or allowed to land, and that he had no reason to believe that such person had been convicted as aforesaid.

Power to exempt certain classes of persons.

The Governor General in Council may from time to time, by notification in the *Gazette of India*, exempt from the operation of the former part of this section the masters of any class of ships, on such terms as to the Governor General in Council seem fit, and either in respect of all or of any of the persons on board such ships.[1]

The Governor General in Council may in like manner revoke any exemption made under this section.—[The European Vagrancy Act, 1874—Act IX of 1874, s. 25.]

Naval Courts on the High Seas and abroad.

Naval Courts.

Naval Courts may be summoned for hearing complaints and investigating wrongs on the high seas or abroad.

260. Any officer in command of any ship of Her Majesty on any foreign station, or, in the absence of such officer, any Consular officer, may summon a court, to be termed a "Naval Court," in the following cases (that is to say)—

(1) Whenever a complaint which appears to such officer to require immediate investigation is made to him by the master of any British

[1] See *Gazette of India*, 22nd October 1870, p. 723.

Naval Courts.

ship, or by any certificated mate, or by one or more of the seamen belonging to any such ship:

(2) Whenever the interest of the owner of any British ship or of the cargo of any such ship appears to such officer to require it:

(3) Whenever any British ship is wrecked or abandoned or otherwise lost at or near the place where such officer may be, or whenever the crew or part of the crew of any British ship which has been wrecked, abandoned, or lost abroad, arrives at such place.

Constitution of such courts.

261. Every such naval court as aforesaid shall consist of not more than five and not less than three members, of whom, if possible, one shall be an officer in the Naval Service of Her Majesty not below the rank of lieutenant; one a Consular officer, and one a master of a British merchant ship, and the rest shall be either officers in the Naval Service of Her Majesty, masters of British merchant ships, or British merchants; and such court may include the naval or Consular officer summoning the same, but shall not include the master or consignee of the ship to which the parties complaining or complained against may belong; and the naval or Consular officer in such court, if there is only one such officer in the court, or, if there is more than one, the naval or Consular officer who, according to any regulations for settling their respective ranks for the time being in force, is of the highest rank, shall be the president of such court.

General functions and mode of action of such courts.

262. Every such naval court shall hear and investigate the complaint brought before it, or the cause of the wreck or abandonment (as the case may be), and may for that purpose summon and compel the attendance of parties and witnesses, and administer oaths, and order the production of documents, and shall conduct the investigation in such manner as to give any person against whom any charge is made an opportunity of making a defence.

Powers of such courts.

263. Every such naval court may, after hearing the case, exercise the following powers (that is to say)—

To supersede the master.

(1) It may, if unanimous that the safety of the ship or crew, or the interest of the owner, absolutely requires it, supersede the master, and may appoint another person to act in his stead; but no such appointment shall be made without the consent of the consignee of the ship, if then at the place:

To discharge a seaman.

(2) It may discharge any seaman from his ship:

To forfeit wages.

(3) It may order the wages of any seaman so discharged or any part of such wages to be forfeited, and may direct the same either to be retained by way of compensation to the owner, or to be paid into the receipt of Her Majesty's Exchequer in the same manner as other penalties and forfeitures under this Act:

To decide disputes as to wages, &c.

(4) It may decide any questions as to wages, or fines, or forfeitures, arising between any of the parties to the proceedings:

To direct costs of imprisonment to be paid out of wages.

(5) It may direct that all or any of the costs incurred by the master or owner of any ship in procuring the imprisonment of any seaman

or apprentice in a foreign port, or in his maintenance whilst so imprisoned, shall be paid out of and deducted from the wages of such seaman or apprentice, whether then or subsequently earned: *Naval Courts.*

(6) It may exercise the same powers with regard to persons charged before it with the commission of offences at sea or abroad as are by this Act given to British Consular officers: *To send back offenders for trial.*

(7) It may order the costs of the proceeding before it (if any), or any portion thereof, to be paid by any of the parties thereto, and may order any person making a frivolous or vexatious complaint to pay compensation for any loss or delay caused thereby; and any cost or compensation so ordered shall be paid by such person accordingly, and may be recovered in the same manner in which the wages of seamen are recoverable, or may, if the case admits, be deducted from his wages: And all orders duly made by any such court under the powers hereby given to it shall in any subsequent legal proceedings be deemed conclusive as to the rights of the parties. *To order payment of costs, &c.*

264. All orders made by such naval court shall, whenever practicable, be entered in the official log book of the ship to which the parties to the proceedings before it belong, and shall be signed by the president of the court. *Orders to be entered in official log.*

265. Every such naval court shall make a report to the Board of Trade, containing the following particulars (that is to say)— *Report to be made of proceedings of naval courts.*

(1) A statement of the proceedings, with the order made by the court, and a report of the evidence:

(2) An account of the wages of any seaman or apprentice who is discharged from his ship by such court:

(3) If summoned in order to enquire into a case of wreck or abandonment, a statement of the opinion of the court as to the cause of such wreck or abandonment, with such remarks on the conduct of the master and crew as the circumstances require:

And every such report shall be signed by the president of the court; and every document purporting to be such a report and to be so signed as aforesaid shall, if produced out of the custody of some officer of the Board of Trade, be deemed to be such report, unless the contrary is proved, and shall be received in evidence, subject to all just exceptions.

266. Any person who wilfully and without due cause prevents or obstructs the making of any such complaint as last aforesaid, or the conduct of any case or investigation by any naval court, shall for each such offence incur a penalty not exceeding fifty pounds, or be liable to imprisonment, with or without hard labour, for any period not exceeding twelve weeks. *Penalty for preventing complaint or obstructing investigation.*

Crimes committed on the High Seas and abroad.

Crimes committed on the High Seas and abroad.

267. All offences against property or person committed in or at any place either ashore or afloat out of Her Majesty's dominions by any master, seaman, *Offences committed by*

or apprentice shall at the time when the offence is committed, or within three months previously, have been employed in any British ship shall be deemed to be offenders of the same nature respectively, and be liable to the same punishment respectively, and be inquired of, heard, tried, determined and adjudged in the same manner, and by the same courts and in the same places, as if such offences had been committed within the jurisdiction of the Admiralty of England; and the costs and expenses of the prosecution of any such offence may be directed to be paid as in the case of costs and expenses of prosecutions for offences committed within the jurisdiction of the Admiralty of England.

267. If any person being a subject of Her Majesty or of any prince or state in India in alliance with Her Majesty shall upon the high seas or in any part of Asia or Africa which Her Majesty may from time to time think fit to specify by any order in Council in this behalf, commit any of the offences defined in sections 367, 370, and 371[1] (in the schedule to this Act respectively repealed) of Act XLV of 1860, passed by the Governor General of India in Council and called "The Indian Penal Code," or aid within the meaning of the fifth chapter of the said Penal Code the commission of any such offence such person shall be dealt with in respect of such offence or abetment, as if the same had been committed in any place within British India in which he may be or may be found.—[Slave Trade Act,[2] 50 & 40 Vic., c. 46, s. 1.]

268. The following rules shall be observed with respect to offences committed on the high seas or abroad (that is to say)—

1. Whenever any complaint is made to any British Consular officer of any of the offences mentioned in the last preceding section, or of any offence on the high seas, having been committed by any master, seaman, or apprentice belonging to any British ship, such Consular officer may inquire into the case upon oath, and may if the case so requires take any steps in his power for the purpose of placing the offender under necessary restraint and of sending him as soon as practicable in safe custody to the United Kingdom, or to any British possession in which there is a court capable of taking cognizance of the offence, in any ship belonging to Her Majesty or to any of Her subjects, to be there proceeded against according to law.

2. For the purpose aforesaid such Consular officer may order the master of any ship belonging to any subject of Her Majesty bound to the United Kingdom or to such British possession as aforesaid, to receive and afford a passage and subsistence during the voyage to any such offender as aforesaid, and to the witnesses, so that such master be not required to receive more than one offender for every one hundred tons of his ship's registered tonnage, or more than one

[1] S. 367 deals with kidnapping or abducting in order to subject a person to grievous hurt or slavery.
[2] S. 370 deals with the purchase or sale of slaves.
[3] S. 371 deals with habitual dealing in slaves.
[4] c. 5 (2nd & 3rd Ed.). See also Legal Procedure, Part XI.

witness for every fifty tons of such tonnage; and such Consular officer shall indorse upon the agreement of the ship such particulars with respect to any offenders or witnesses sent in her as the Board of Trade requires:

Crimes committed on the High Seas and abroad.

(3) Every such master shall on his ship's arrival in the United Kingdom, or in such British possession as aforesaid, give every offender so committed to his charge into the custody of some police officer or constable, who shall take the offender before a justice of the peace or other magistrate by law empowered to deal with the matter, and such justice or magistrate shall deal with the matter as in cases of offences committed upon the high seas:

And any such master as aforesaid who when required by any British Consular officer[1] to receive and afford a passage and subsistence to any offender or witness does not receive him and afford such passage and subsistence to him or who does not deliver any offender committed to his charge into the custody of some police officer or constable as hereinbefore directed, shall for each such offence incur a penalty not exceeding fifty pounds; and the expense of imprisoning any such offender, and of conveying him and the witnesses to the United Kingdom, or to such British possession as aforesaid, in any manner other than in the ship to which they respectively belong, shall be part of the costs of the prosecution, or be paid as costs incurred on account of sea-faring subjects of Her Majesty left in distress in foreign parts.

Inquiry into cause of death on board.

269. Whenever any case of death happens on board any foreign-going ship, the shipping master shall, on the arrival of such ship at the port where the crew is discharged, inquire into the cause of such death, and shall make on the list of the crew delivered to him as herein required an indorsement to the effect either that the statement of the cause of death therein contained is in his opinion true, or otherwise, as the result of the inquiry requires; and every such shipping master shall for the purpose of such inquiry have the powers hereby given to inspectors appointed by the Board of Trade under the first part of this Act; and if in the course of such inquiry it appears to him that any such death as aforesaid has been caused by violence or other improper means, he shall either report the matter to the Board of Trade, or, if the emergency of the case so requires, shall take immediate steps for bringing the offender or offenders to justice.[2]

Legislatures of Possessions abroad may legislate for trial, &c. of offences committed in such possession, where persons injured die out of the limits thereof.

269a. It shall be lawful for the legislature of any of Her Majesty's possessions abroad to enact by any law or ordinance, to be by them made in the usual manner, that where any person, being feloniously stricken, poisoned, or otherwise hurt at any place within the limits of such possession, shall die of such stroke, poisoning, or hurt upon the sea or at any place out of the limits of such possession, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being

[1] See s. 543 (3a). [2] See note to s. 173.

Crimes committed on the High Seas and abroad.

accessory before the fact to murder, or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished in the possession within the limits of which such stroke, poisoning, or hurt shall happen, in the same manner in all respects as if such offence had been wholly committed within the limits of such possession; or such legislature may enact, by any such law or ordinance to be made as aforesaid, to the like effect.—[Admiralty Offence Colonial Act, 1860, 23 & 24 Vic., c. 122, s. 1.]

See also ss. 543k, 543l, 543m, 543n, 543o.

Jurisdiction as to crimes committed at sea.

269*b*. Where the crime in respect of which the surrender of a fugitive criminal is sought was committed on board any vessel on the high seas which comes into any port of the United Kingdom, the following provisions shall have effect:

(1) This Act shall be construed as if any stipendiary magistrate in England or Ireland, and any sheriff or sheriff substitute in Scotland, were substituted for the police magistrate throughout this Act, except the part relating to the execution of the warrant of the police magistrate:

(2) The criminal may be committed to any prison to which the person committing him has power to commit persons accused of the like crime

(3) If the fugitive criminal is apprehended on a warrant issued without the order of a Secretary of State, he shall be brought before the stipendary magistrate, sheriff, or sheriff substitute who issued the warrant, or who has jurisdiction in the port where the vessel lies, or in the place nearest to that port.—[The Extradition Act, 1870, 33 & 34 Vic., c. 52, s. 16.]

Explanation of s. 16 of 33 & 34 Vic., c. 52.

269*c*. The jurisdiction conferred by section 16 of the principal Act[1] on a stipendiary magistrate, and a sheriff or sheriff substitute, shall be deemed to be in addition to, and not in derogation or exclusion of, the jurisdiction of the police magistrate.—[Extradition Act, 1873, 36 & 37 Vic., c. 60, s. 6.]

Deposition to be received in evidence when witness cannot be produced.

270. Whenever in the course of any legal proceedings instituted in any part of Her Majesty's dominions before any judge or magistrate, or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter of such proceeding, then upon due proof, if such proceeding is instituted in the United Kingdom, that such witness cannot be found in that Kingdom, or if in any British possession, that he cannot be found in the same possession, any deposition that such witness may have previously made on oath in relation to the same subject-matter before any justice or magistrate in Her Majesty's dominions, or any British Consular officer elsewhere, shall be admissible in evidence, subject to the following restrictions (that is to say)—

[1] 33 & 34 Vic., c. 52, s. 16.

Crimes committed on the High Seas and abroad.

(1) If such deposition was made in the United Kingdom, it shall not be admissible in any proceeding instituted in the United Kingdom:

(2) If such a deposition was made in any British possession, it shall not be admissible in any proceeding instituted in the same British possession:

(3) If the proceeding is criminal, it shall not be admissible unless it was made in the presence of the persons accused:

Every deposition so made as aforesaid shall be authenticated by the signature of the judge, magistrate, or Consular officer before whom the same is made; and such judge, magistrate, or Consular officer shall, when the same is taken in a criminal matter, certify, if the fact is so, and that the accused was present at the taking thereof, but it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified; but nothing herein contained shall affect any case in which depositions taken in any proceeding are rendered admissible in evidence by any Act of Parliament, or by any Act or ordinance of the legislature of any colony, so far as regards such colony, or to interfere with the power of any colonial legislature to make such depositions admissible in evidence, or to interfere with the practice of any court in which depositions not authenticated as hereinbefore mentioned are admissible.

Depositions to be received in evidence when witnesses cannot be produced.

270*a*. Whenever, in the course of any legal proceedings instituted at any port or place in India before any judge or magistrate or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter of such proceeding any deposition that such witness may have previously made in relation to the same subject-matter before any justice or magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the port or place where such proceedings are instituted), or any British Consular officer elsewhere, shall, if authenticated by the signature of the justice, magistrate, or Consular officer, be admissible in evidence on due proof that such witness cannot be found within the jurisdiction of the court in which such proceedings are instituted:

Proviso.

Provided that, if the proceeding is criminal, such deposition shall not be admissible unless it was made in the presence of the person accused and the fact that it was so made is certified by the justice, magistrate, or Consular officer.

It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding, such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 111.]

Registration and returns respecting Seamen.

Registration of and Returns respecting Seamen.

Establishment of Register Office.

271. There shall be in the Port of London an office, to be called the "General Register and Record Office of Seamen"; and the Board of Trade shall have control over the same, and may appoint and from time to time remove a Registrar General, and such assistants, clerks, and servants as may be necessary, and may from time to time, with the consent of the Treasury, regulate their salaries and allowances; and such salaries and allowances, and all other necessary expenses, shall be paid by the Treasury out of any monies to be granted by Parliament for that purpose; and the Board of Trade may direct the business of the register office at any of the outports to be transacted at the shipping office, or, with the consent of the Commissioners of Customs, at the custom-house of the port, and may appoint the shipping master, or, with such consent as aforesaid, some officer of Customs, to conduct the same; and such business shall thereupon be conducted accordingly, but shall in all cases be subject to the immediate control of the Board of Trade.

Register of seamen to be kept.

272. The said Registrar General of Seamen[1] shall, by means of the agreements, lists, and other papers to be transmitted to him as herein directed, or by such other means as are in his power, keep a register of all persons who serve in ships subject to the provisions of this Act.

Lists to be made for all ships containing certain particulars.

273. Every master of every foreign-going ship of which the crew is discharged in the United Kingdom, in whatever part of Her Majesty's dominions the same is registered, and of every home-trade ship, shall make out and sign a list in a form sanctioned by the Board of Trade, containing the following particulars (that is to say)—

(1) The number and date of the ship's register, and her registered tonnage:

(2) The length and general nature of the voyage or employment:

(3) The Christian names, surnames, ages, and places of birth of all the crew, including the master and apprentices; their qualities on board, their last ships or other employments, and the dates and places of their joining the ship:

(4) The names of any members of the crew who have died or otherwise ceased to belong to the ship, with the times, places, causes and circumstances thereof:

(5) The names of any members of the crew who have been maimed or hurt, with the times, places, causes and circumstances thereof:

(6) The wages due to any of the crew who have died, at the times of their respective deaths:

(7) The clothes and other effects belonging to any of the crew who have died, with a statement of the manner in which they have been dealt with, and the money for which any of them have been sold:

[1] Title altered to Registrar General of Shipping and Seamen by Merchant Shipping Act Amendment Act, 1872, 35 & 36 Vic., c. 73, s. 2.

(8) *The name, age, and sex of every person, not being one of the crew, who dies on board, with the date and the cause thereof*[1];

(9) *Every birth which happens on board, with the date thereof, the sex of the infant, and the names of the parents*[1];

(10) Every marriage which takes place on board, with the date thereof, and the names and ages of the parties.

Registration of births and deaths at sea, including Deaths.

273*a*. All marriages, both of the parties being British subjects, which before the passing of this Act have been solemnized on board one of Her Majesty's vessels on a foreign station in the presence of the officer commanding such vessel, whether solemnized according to any religious rite or ceremony, or contracted *per verba de presenti*, shall be valid in like manner as if the same had been solemnized within Her Majesty's dominions with the due observance of all forms required by law:

Confirmation of marriages of British subjects solemnized on Her Majesty's ships.

Provided that this enactment shall not render valid any marriage which before the passing of this Act has been declared invalid by any court of competent jurisdiction in any proceeding touching such marriage, or any right dependent on the validity or invalidity thereof, or render valid any marriage where either of the parties has before the passing of this Act and during the life of the other party lawfully intermarried with any person.—[Confirmation of marriages on Her Majesty's ships, Act 42 & 43 Vic., c. 29, s. 2.]

List of foreign-going ship to be delivered to shipping master on arrival.

274. In the case of foreign-going ships the master shall within forty-eight hours after the ship's arrival at her final port of destination in the United Kingdom, or upon the discharge of the crew, whichever first happens, deliver to the shipping master before whom the crew is discharged such list as herein-before required, and if he fails so to do shall for every default incur a penalty not exceeding five pounds; and such shipping master shall thereupon give to the master a certificate of such delivery; and no officer of Customs shall clear inwards any foreign-going ship without the production of such certificate, and any such officer may detain any such ship until the same is produced.

Registration of births and deaths at sea.

274*a*. The provisions of this Act, save as is herein expressly provided, shall not apply to the registration of births and deaths on board a vessel at sea, with respect to which the following provisions shall have effect:

(1) The captain or master of or other person having the command or charge of a British ship shall, as soon as may be after the occurrence of the birth of a child or the death of a person on board such ship, record in his log book or otherwise the fact of such birth or death, and the particulars required by the fourth schedule to this Act to be registered concerning such birth or death, or such of them as may be known to him, and shall (unless the ship is one of Her Majesty's ships), upon the arrival of such ship at any port of the United Kingdom, or at such other time or place as the Board of Trade may from time to time with respect to any ship or class of ships direct,

[1] Section 273 is repealed, so far as it relates to the entry of any birth or death, by 37 & 38 Vic., c. 88, s. 64.

Registration and Returns respecting Seamen.

deliver or send, in such form and manner as the Board of Trade may from time to time direct, a return of the facts so recorded to the Registrar General of Shipping and Seamen.

(2) Where a ship which is not a British ship carries passengers to or from any port of the United Kingdom as the port of destination or the port of departure of such ship, the provisions of this section shall apply to the captain or master of or other person having the command or charge of such ship, in like manner as if it were a British ship.

(3) Where the said return is directed by the Board of Trade (whether the ship is British or foreign) to be delivered upon the arrival of the ship, or the discharge of the crew, or otherwise, at any port or place out of the United Kingdom, the Board of Trade may, if they think fit, direct that the return instead of being delivered to the Registrar General of Shipping and Seamen shall be delivered, and the same shall accordingly be delivered, if such port or place is within Her Majesty's dominions, to the shipping master or collector of customs at such port or place, and if it is a foreign port or place, to the principal British Consular officer at the said foreign port or place, and such shipping master, collector, or officer shall send the same, as soon as may be, by post or otherwise, to the Registrar General of Shipping and Seamen.

(4) Where it appears from any such return that the father of any child so born, or if the child is a bastard the mother of such child, was a Scotch or Irish subject of Her Majesty, or that any person whose death is mentioned in such return was a Scotch or Irish subject of Her Majesty, the Registrar General of Shipping and Seamen shall from time to time send a certified copy of so much of the return as relates to such birth or death to the Registrar General of Births and Deaths in Scotland or Ireland as the case may require.

(5) The Registrar General of Shipping and Seamen shall, from time to time, send to the Registrar General of Births and Deaths in England a certified copy of every other such return, or of that part of every such return which is not so sent to the Registrar General of Births and Deaths in Scotland or Ireland.

(6) A captain of, or other person having charge of, one of Her Majesty's ship shall, upon the arrival of any such ship in any port in the United Kingdom, or at such other time as the Commissioners of Admiralty may from time to time direct, deliver or send, in such manner and form as the said Commissioners may from time to time direct, a return of the facts recorded in pursuance of this section to that Registrar General of Births and Deaths to whom a copy of such return would, if the ship were a merchant ship, be sent, under the provisions of this section by the Registrar General of Shipping and Seamen.

(7) Every Registrar General of Births and Deaths to whom a copy of any return, or a return is sent in pursuance of this section shall cause the same to be filed and preserved in or copied in a book to be kept by him for the purpose, and to be called a Marine Register Book, and such book shall be deemed to be a certified copy of a Register Book within the meaning of the Acts relating to the registration of births and deaths in England, Scotland, and Ireland respectively. Registration and Returns concerning Seamen.

(8) Every captain or master of or other person having charge of a ship who fails to comply with this section shall be liable to a penalty not exceeding five pounds for each offence; and such penalty may be recovered in the same courts and places and in the like manner, and when recovered shall be applied in like manner, as a penalty under the Merchant Shipping Act, 1854.

(9) This section shall extend to all places and persons within British jurisdiction.

(10) Terms in this section shall have the same meaning as in the Merchant Shipping Act, 1854.

FOURTH SCHEDULE.

Particulars to be registered by captain of a ship concerning a birth at sea.

Date of birth.
Name (if any) and sex of the child.
Name and surname, and rank, and profession or occupation of the father.
Name and surname, and maiden surname of mother.
Nationality and last place of abode of the father and mother.

Particulars to be registered by captain of a ship concerning a death at sea.

Date of death.
Name and surname.
Sex.
Age.
Rank, profession or occupation.
Nationality and last place of abode.
Cause of death.

[Registration of Births and Deaths at Sea—37 & 38 Vic., c. 88, s. 37.]

275. The master or owner of every home-trade ship shall within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year transmit or deliver to some shipping master in the United Kingdom such list as hereinbefore required for the preceding half-year, and shall in default incur a penalty not exceeding five pounds; and such shipping master shall give to the master or owner a certificate of such transmission or delivery; and no officer of Customs shall grant a clearance or transire for any home-trade ship without the production of such certificate, and any such officer may detain any such ship until the same is produced. Lists to be delivered by home-trade ship half-yearly.

Registration and Record of Shipping Masters.

Lists to be sent home in case of transfer of ship, and in case of loss.

276. If any ship ceases by reason of transfer of ownership or change of employment to fall within the definition of a foreign-going or of a home-trade ship, the master or owner thereof shall, if such ship is then in the United Kingdom, within one month, and if she is elsewhere, within six months, deliver or transmit to the shipping master at the port to which the ship has belonged such list as hereinbefore mentioned, duly made out to the time at which time she ceased to be a foreign-going or home-trade ship, and in default shall for each offence incur a penalty not exceeding ten pounds; and if any ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping master at the port to which the ship belonged such list as hereinbefore mentioned, duly made out to the time of such loss or abandonment, and in default shall for each offence incur a penalty not exceeding ten pounds.

Shipping masters and other officers to transmit documents to Registrar.

Registrar to permit inspection, to produce originals, and give copies.

277. All shipping masters and officers of Customs shall take charge of all documents which are delivered or transmitted to or retained by them in pursuance of this Act, and shall keep them for such time (if any) as may be necessary for the purpose of settling any business arising at the place where such documents come into their hands, or for any other proper purpose, and shall, if required, produce them for any of such purposes, and shall then transmit them to the Registrar General of Seamen, to be by him recorded and preserved; and the said Registrar shall on payment of a moderate fee, to be fixed by the Board of Trade, or without payment of any fee, if the Board of Trade so directs, allow any person to inspect the same; and in cases in which the production of the original of any such document in any court of justice or elsewhere is essential shall produce the same, and in other cases shall make and deliver to any person requiring it a certified copy of any such document or of any part thereof; and every copy purporting to be so made and certified shall be received in evidence, and shall have all the effect of the original of which it purports to be a copy.

Officers of Customs to make returns of ships to Registrar.

278. The collector or comptroller of Customs at every port in the United Kingdom shall on or before the first day of February and the first day of August in every year transmit to the Registrar General of Seamen a list of all ships registered in such port, and also of all ships whose registers have been transferred or cancelled in such port since the last preceding return.

Agreements, indentures, and assignments, on arrival at a foreign port to be delivered to Consul, and at a colony with the officers of Customs.

279. The following rules shall be observed with respect to the delivery of documents to British Consular officers (that is to say)—

(1) Whenever any ship, in whatever part of Her Majesty's dominions the same is registered (except ships whose business for the time being is to carry passengers), arrives at any foreign port where there is a British Consular officer, or at any port in any British possession abroad, and remains thereat for forty-eight hours, the master shall within forty-eight hours of the ship's arrival deliver to such Consular officer, or to the chief officer of Customs (as the case may be), the agreement with the crew, and also all indentures and assign-

ments of apprenticeships, or, in the case of a ship belonging to a British possession, such of the said documents as such ship is provided with:

Registration and its forms regarding Seamen.

(2) Such officer shall keep such documents during the ship's stay in such port, and in cases where any indorsements upon the agreement are hereby required shall duly make the same, and shall return the said documents to the master a reasonable time before his departure, with a certificate indorsed on the agreement, stating when the same were respectively delivered and returned:

(3) If it appears that the required forms have been neglected, or that the existing laws have been transgressed, such officer shall make an indorsement to that effect on the agreement, and forthwith transmit a copy of such indorsement, with the fullest information he can collect regarding such neglect or transgression, to the Registrar General of Seamen:

And if any master fails to deliver any such document as aforesaid, he shall for every such default incur a penalty not exceeding twenty pounds; and in any prosecution for such penalty it shall lie upon the master either to produce the certificate of the Consular officer or officer of Customs hereinbefore required, or to prove that he duly obtained the same, or that it was impracticable for him so to do.

Official Logs.

Official Logs.

280. The Board of Trade shall sanction forms of official log-books, which may be different for different classes of ships, so that each such form contains blanks for the entries hereinafter required; and an official log of every ship [except ships employed exclusively in trading between ports on the coasts of the United Kingdom][1] shall be kept in the appropriate sanctioned form; and such official log may, at the discretion of the master or owner, either be kept distinct from the ordinary ship's log or united therewith, so that in all cases all the blanks in the official log be duly filled up.

Official logs to be kept in forms sanctioned by Board of Trade.

280*a*. An official log book of every ship registered at any port or place in India, except home-trade ships of a burden not exceeding three hundred tons, shall be kept in a form sanctioned by the Local Government; and such official log may, at the discretion of the master or owner, either be kept distinct from the ordinary ship's log, or united therewith, so that in all cases all the blanks in the official log be duly filled up.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 103.]

Official logs to be kept in forms sanctioned by Local Government.

281. Every entry in every official log shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as the occurrence to which it relates, shall be made and dated so as to show the date of the occurrence, and of the entry respecting it; and in no case shall

Entries to be made in due time.

[1] These words in brackets are repealed by the Merchant Shipping (Fishing Boats) Act, 1883, 46 & 47 Vict., c. 41, s. 55.

Official Logs.

any entry therein in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge be made more than twenty-four hours after such arrival.

Entries to be made as soon as possible.

281*a*. Every entry in every official log shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as the occurrence to which it relates, shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and in no case shall any entry therein in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge be made more than twenty-four hours after such arrival.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 204.]

Entries required in official log.

282. Every master of a ship for which an official log book is hereby required shall make or cause to be made therein entries of the following matters (that is to say)—

Convictions.

(1) Every legal conviction of any member of his crew, and the punishment inflicted:

Offences.

(2) Every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the reading over such entry, and concerning the reply (if any) made to the charge, as hereinbefore required:

Punishments.

(3) Every offence for which punishment is inflicted on board, and the punishment inflicted:

Conduct, character, etc. of crew.

(4) A statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on such particulars:

Illness and injuries.

(5) Every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment adopted (if any):

Deaths.

(6) *Every case of death happening on board, and of the cause thereof:*

Births.

(7) *Every birth happening on board, with the sex of the infant and the names of the parents:*[1]

Marriages.

(8) Every marriage taking place on board, with the names and ages of the parties:

Quittings.

(9) The name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner, and cause thereof:

Wages of new seamen.

(10) The amount of wages due to any seaman who enters Her Majesty's service during the voyage:

Wages of dead seamen.

(11) The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom:

[1] Section 282 is repealed, so far as it relates to the entry of any birth or death, by 37 & 38 Vic., c. 51.

(12) The sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold, and of the sum received for it: *Official Log.* Sale of deceased men's effects.

(13) Every collision with any other ship, and the circumstances under which the same occurred. Collisions.

282*a*. Every master of a ship for which an official log book is hereby required shall make or cause to be made therein entries of the following matters (that is to say)— Entries required in official log.

(1) Every legal conviction of any member of his crew and the punishment inflicted: Convictions.

(2) Every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the reading over such entry and concerning the reply (if any) made to the charge, as hereinbefore required: Offences.

(3) Every offence for which punishment is inflicted on board and the punishment inflicted: Punishments.

(4) A statement of the conduct, character and qualifications of each of his crew, or a statement that he declines to give an opinion on such particulars: Conduct, &c., of crew.

(5) Every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment adopted (if any): Illness and injuries.

(6) Every case of death happening on board, and of the cause thereof: Deaths.

(7) Every birth happening on board, with the sex of the infant and the names of the parents: Births.

(8) Every marriage taking place on board, with the names and ages of the parties: Marriages.

(9) The name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof: Quitting ship.

(10) The amount of wages due to any seaman who enters Her Majesty's service during the voyage: Wages of men entering Navy.

(11) The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom: Wages of deceased seamen.

(12) The sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it: Sale of deceased men's effects.

(13) Every collision with any other ship and the circumstances under which the same occurred.—[Merchant Seaman's Act, 1859—Act I of 1859, s. 105.] Collisions.

283. The entries hereby required to be made in official log books shall be signed as follows; that is to say, every such entry shall be signed by the Entries, how to be signed.

[1] See s. 244*a*.

Official log.

master, and by the mate or some other of the crew; and every entry of illness, injury, death or birth shall be also signed by the surgeon or medical practitioner on board (if any); and every entry of wages due to or of the sale of the effects of any seaman or apprentice who dies shall be signed by the master, and by the mate and some other member of the crew; and every entry of wages due to any seaman who enters Her Majesty's service shall be signed by the master, and by the seaman or by the officer authorised to receive the seaman into such service.

Entries how to be signed.

283*a*. The entries hereby required to be made in official log books shall be signed as follows; that is to say, every such entry shall be signed by the master and by the mate or some other of the crew, and every entry of illness, injury, death, or birth shall be also signed by the surgeon or medical practitioner on board (if any); and every entry of wages due to, or of the sale of the effects of, any seaman or apprentice who dies shall be signed by the master and by the mate and some other member of the crew, and every entry of wages due to any seaman who enters Her Majesty's service shall be signed by the master and by the seaman, or by the officer authorised to receive the seaman into such service.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 106.]

Penalties in respect of official logs.

284. The following offences in respect of official log books shall be punishable as hereinafter mentioned (that is to say)—

(1) If in any case an official log book is not kept in the manner hereby required, or if any entry hereby directed to be made in any such log book is not made at the time and in the manner hereby directed, the master shall for each such offence incur the specific penalty herein mentioned in respect thereof, or where there is no such specific penalty, a penalty not exceeding five pounds:

(2) Every person who makes or procures to be made or assists in making any entry in any official log book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after such arrival shall for each such offence incur a penalty not exceeding thirty pounds:

(3) Every person who wilfully destroys or mutilates or renders illegible any entry in any official log book, or who wilfully makes or procures to be made or assists in making any false or fraudulent entry or omission in any such log book, shall for each such offence be deemed guilty of a misdemeanor.

Penalties in respect of official logs.

284*a*. The following offences in respect of official log books shall be punishable as hereinafter mentioned (that is to say)—

(1) If in any case an official log book is not kept in the manner hereby required, or if any entry hereby directed to be made in any such log book is not made at the time and in the manner hereby directed, the master shall for each such offence incur the specific penalty herein mentioned in respect thereof, or where there is no such specific penalty, a penalty not exceeding fifty rupees:

(2) Every person who makes or procures to be made or assists in making any entry in an official log book, in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge in India, more than twenty-four hours after such arrival, shall for each such offence incur a penalty not exceeding three hundred rupees. Official logs.

(3) Every person who wilfully destroys or mutilates or renders illegible any entry in any official log book, or who wilfully makes or procures to be made or assists in making any false or fraudulent entry or omission in any such log book, shall for each such offence be liable to imprisonment, with or without hard labour, for a term not exceeding one year.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 107.]

285. All entries made in any official log book as hereinbefore directed shall be received in evidence in any proceeding in any court of justice, subject to all just exceptions. Entries in official logs to be received in evidence.

285a. All entries made in any official log book as hereinbefore directed shall be received in evidence in any proceeding in any court of justice, subject to all just exceptions.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 108.] Entries in official logs to be received in evidence.

286. In the case of foreign-going ships the master shall within forty-eight hours after the ship's arrival at her final port of destination in the United Kingdom, or upon the discharge of the crew, whichever first happens, deliver to the shipping master before whom the crew is discharged the official log book of the voyage; and the master or owner of every home-trade ship not exclusively employed in trading between ports on the coasts in the United Kingdom shall within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year transmit or deliver to some shipping master in the United Kingdom the official log book for the preceding half-year; and every master or owner who refuses or neglects to deliver his official log book as hereby required shall be subject to the same consequences and liabilities to which he is hereby made subject for the non-delivery of the list of his crew hereinbefore mentioned. Official logs to be delivered to shipping master.

286a. The master or every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in India, or upon the discharge of the crew, whichever first happens, deliver to the shipping master before whom the crew is discharged the official log book of the voyage; and the master or owner of every home-trade ship of a burden exceeding three hundred tons shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver to some shipping master in India the official log book for the preceding half-year; and every master or owner who refuses or neglects to deliver his official log book, as hereby required, shall be subject to a penalty not exceeding two hundred rupees.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 109.] Official logs to be delivered to shipping master on ship's arrival at port of destination in India.

Official logs.

Official logs to be sent home in case of transfer of ship, and in case of loss.

287. If any ship ceases, by reason of transfer of ownership or change of employment, to fall within the definition of a foreign-going or of a home-trade ship, the master or owner thereof shall, if such ship is then in the United Kingdom, within one month, and if she is elsewhere, within six months, deliver or transmit to the shipping master at the port to which the ship belonged the official log book (if any), duly made out to the time at which she ceased to be a foreign-going or home-trade ship, and in default shall for each offence incur a penalty not exceeding ten pounds; and if any ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping master at the port to which the ship belonged the official log book (if any), duly made out to the time of such loss or abandonment, and in default shall for each offence incur a penalty not exceeding ten pounds.

Official logs to be transmitted to shipping master in case of transfer of ship, and in case of loss.

287*a*. If any ship ceases, by reason of transfer of ownership or change of employment, to fall within the operation of section 103 of this Act,[1] the master or owner thereof shall, if such ship is then in any port in India, within one month, and if she is elsewhere, within six months, deliver or transmit to the shipping master at the port to which the ship belonged the official log book duly made out to the time at which she ceased to be within such operation, and in default shall for each offence incur a penalty not exceeding one hundred rupees; and if any ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping master at the port to which the ship belonged the official log book (if any), duly made out to the time of such loss or abandonment, and in default shall for each offence incur a penalty not exceeding one hundred rupees.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 110.]

East Indies and Colonies.

East Indies and Colonies.

Provisions of third part of Act as applied by East Indian and colonial governments to their own subjects to be enforced throughout the Empire.

288. If the Governor General of India in Council, or the respective legislative authorities in any British possession abroad, by any Acts, ordinances, or other appropriate legal means, apply or adapt any of the provisions in the third part of this Act contained to any British ships registered at, trading with, or being at any place within their respective jurisdictions, and to the owners, masters, mates and crews thereof, such provisions, when so applied and adapted as aforesaid, and as long as they remain in force, shall in respect of the ships and persons to which the same are applied be enforced, and penalties and punishments for the breach thereof shall be recovered and inflicted, throughout Her Majesty's dominions, in the same manner as if such provisions had been hereby so adapted and applied, and such penalties and punishments had been hereby expressly imposed.

East Indian and colonial laws to be

289. Every Act, ordinance, or other form of law to be passed or promulgated by the Governor General of India in Council, or by any other legislative

[1] See s. 280*a*.

authority, in pursuance of this Act, shall respectively be subject to the same right of disallowance or repeal, and require the same sanction or other acts and formalities, and be subject to the same conditions in all respects, as exist and are required in order to the validity of any other Act, ordinance, or other form of law passed by such Governor General in Council or other legislative authority respectively.

East Indies and Colonies.

Subject to disallowance, and require same sanction as in other cases.

290. If in any matter relating to any ship, or to any person belonging to any ship, there appears to be a conflict of laws, then if there is in the third part of this Act any provision on the subject which is hereby expressly made to extend to such ship the case shall be governed by such provision, and if there is no such provision the case shall be governed by the law of the place in which such ship is registered.

Conflict of laws.

Royal Naval Reserve.

Royal Naval Reserve.

290*a*. It shall be lawful for Her Majesty to accept from time to time the offers of any person whom the Lord High Admiral or the Commissioners for executing his office may recommend to serve as officers of reserve in the Royal Navy, upon such terms and conditions as to Her Majesty may from time to time seem fit, and the "Officers of the Royal Naval Reserve Act, 1863," shall be read and construed as if this clause formed part of the said Act.—[The Merchant Shipping Act, 1872, 35 & 36 Vic., c. 73. s. 17.]

Her Majesty may accept offers of persons recommended by the Admiralty to serve as officers of the Royal Naval Reserve.

PART IV.

SAFETY AND PREVENTION OF ACCIDENTS.

Application.

Application.

291. The fourth part of this Act shall apply to all British ships: and all foreign steam-ships carrying passengers between places in the United Kingdom shall be subject to all the provisions contained in the fourth part of this Act, and likewise to the same provisions with respect to the certificates of the masters and mates thereof to which British steam-ships are subject.

Application of Part IV of Act.

291*a*. Whenever foreign ships are within British jurisdiction, the regulations for preventing collision contained in table (C)[1] in the schedule to this Act, or such other regulations for preventing collision as are for the time being in force under this Act, and all provisions of this Act relating to such regulations, or otherwise relating to collisions, shall apply to such foreign ships; and in any cases arising in any British court of justice concerning matters happening within British jurisdiction, foreign ships shall, so far as

Foreign ships in British jurisdiction to be subject to regulations in table (C) in schedule, &c.

[1] See s. 299*a*.

Application.

regards such regulations and provisions, be treated as if they were British ships.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 57.]

Regulations, when adopted by a foreign country, may be applied to its ships on the high seas.

291*b*. Whenever it is made to appear to Her Majesty that the Government of any foreign country is willing that the regulations for preventing collision contained in table (C)[1] in the Schedule to this Act, or such other regulations for preventing collision as are for the time being in force under this Act, or any of the said regulations, or any provisions of this Act relating to collisions, should apply to the ships of such country when beyond the limits of British jurisdiction, Her Majesty may, by Order in Council, direct that such regulations, and all provisions of this Act which relate to such regulations, and all such other provisions as aforesaid, shall apply to the ships of the said foreign country, whether within British jurisdiction or not.—[Merchant Shipping Act Amendment Act, 25 & 26 Vic., c. 63, s. 58.]

The following countries have adopted these regulations:—

Country or Place.	Date of Gazette containing Order in Council.	Country or Place.	Date of Gazette containing Order in Council.
Austria	1st May 1863.	Morocco	28th July 1863.
Argentine Republic	15th Sept. 1863.	Netherlands	15th Sept. 1863.
Belgium	1st May 1863.	Norway	Ditto.
Brazil	28th July 1863.	Oldenberg	1st May 1863.
Bremen	Ditto.	Peru	25th July 1863.
Chili	20th Nov. 1863.	Portugal	1st May 1863.
Denmark (proper)	5th Feb. 1864.	Prussia	Ditto.
Equator (Republic of the)	28th July 1863.	Roman States	20th Nov. 1863.
France	13th Jan. 1863.	Russia	28th July 1863.
Great Britain	Ditto.	Schleswig	5th Feb. 1864.
Greece	6th Feb. 1866.	Spain	28th July 1863.
Hamburg	28th July 1863.	Sweden	Ditto.
Hanover	1st May 1863.	Turkey	20th Nov. 1863.
Hawaiian Islands	30th June 1865.	United States (sea-going ships).	30th Aug. 1864.
Hayti	1st May 1863.		
Italy	Ditto.	United States (Inland waters).	2nd Dec. 1864.
Lubeck	28th July 1863.	Uruguay	28th July 1863.
Mecklenburg Schwerin	1st May 1863.		

Unseaworthy and Unsafe Ships.

Unseaworthy and Unsafe Ships.

Interpretation-clause. "British Indian ship."

291*c*. In this chapter,[2] "British Indian ship" means a ship registered under Act No. XIX of 1838, Act No. X of 1841, or Act No. XI of 1850,

[1] See s. 299*a*.

[2] Chapter II of Act VII of 1880. As to the sections contained in this chapter, p. 491. Nothing in chapter II applies—

(*a*) to any ship belonging to or hired by Her Majesty or the Secretary of State for India in Council;

(*b*) to any ship of less than one hundred and fifty tons register employed solely in fishing or in plying coastwise between ports situate in India and Ceylon;

(*c*) to any pleasure yacht.

or under any other law passed by the Governor General in Council and for the time being in force for the registration of ships in India; and

Unseaworthy and Unsafe Ships.

"British ship" includes a British Indian ship:

"British ship."

"manner prescribed" means such manner as the Local Government, with the previous sanction of the Governor General in Council, may, from time to time, by rules published in the official Gazette, prescribe:

"manner prescribed."

A ship is "unseaworthy" within the meaning of this chapter when the materials of which she is made, her construction, the qualifications of the master, the number and description of the crew, the weight, description and stowage of cargo, the tackle, sails, rigging, stores, ballast and other equipment generally are not such as to render her in every respect fit for the proposed voyage or service:

"Unseaworthy."

A ship is "unsafe" within the meaning of this chapter when by reason of the defective condition of her hull, equipments or machinery, or by reason of overloading or improper loading, she is unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 4.]

"Unsafe."

291*d*. Every person who sends or attempts to send or is party to sending or attempting to send a British ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of a misdemeanor, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state, or that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable, and for the purpose of giving such proof he may give evidence in the same manner as any other witness.

Sending unseaworthy ship to sea a misdemeanor.

Every master of a British ship who knowingly takes the same to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall be guilty of a misdemeanor, unless he proves that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable, and for the purpose of giving such proof he may give evidence in the same manner as any other witness.

A prosecution under this section shall not be instituted except by or with the consent of the Board of Trade, or of the Governor of the British possession in which such prosecution takes place.

A misdemeanor under this section shall not be punishable upon summary conviction.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 4.]

291*e*. Every person who sends or attempts to send a British Indian ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state, or that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Every person sending unseaworthy ship to sea liable to penalty.

Unseaworthy and Unsafe Ships.

Master taking unseaworthy ship to sea liable to penalty.

Every master of a British Indian ship who knowingly takes such ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

For the purpose of giving such proof, every person charged under this section may give evidence in the same manner as any other witness.

Prosecution to be by, or with consent of, Local Government.

No prosecution under this section shall be instituted except by, or with the consent of, the Local Government.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 5.]

Obligation of shipowner to crew with respect to use of reasonable efforts to secure seaworthiness.

291*f*. In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship, that the owner of the ship, and the master, and every agent charged with the loading of the ship, or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to insure the seaworthiness of the ship for the voyage at the time when the voyage commences, and to keep her in a seaworthy condition for the voyage during the same: Provided that nothing in this section shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending thereof to sea is reasonable and justifiable.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 5.]

Obligation of owner to crew with respect to seaworthiness.

291*g*. In every contract of service, express or implied, between the owner of a British ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any such ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner that such owner and master and every agent charged with the loading of such ship or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to secure the seaworthiness of such ship for the voyage at the time when such voyage commences, and to keep her in a seaworthy state for the voyage during the same:

Provisos.

Provided that nothing in this section shall subject such owner to any liability by reason of such ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending her to sea is reasonable and justifiable.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 6.]

Power to detain unsafe ships, and procedure for such detention.

291*h*. Where a British ship, being in any port of the United Kingdom, is, by reason of the defective condition of her hull, equipments, or machinery or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, any such ship (hereinafter referred to as "un-

safe?") may be provisionally detained for the purpose of being surveyed, and either finally detained or released, as follows:— *Unseaworthy and Unsafe Ships.*

(1) The Board of Trade, if they have reason to believe on complaint, or otherwise, that a British ship is unsafe, may provisionally order the detention of the ship for the purpose of being surveyed.

(2) When a ship has been provisionally detained there shall be forthwith served on the master of the ship a written statement of the grounds of her detention, and the Board of Trade may, if they think fit, appoint some competent person or persons to survey the ship and report thereon to the Board.

(3) The Board of Trade on receiving the report may either order the ship to be released or, if, in their opinion, the ship is unsafe, may order her to be finally detained, either absolutely, or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or re-loading of cargo, as the Board think necessary for the protection of human life, and may from time to time vary or add to any such order.

(4) Before the order for final detention is made a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master of the ship may appeal in the prescribed manner to the court of survey (hereinafter mentioned) for the port or district where the ship is detained.

(5) Where a ship has been provisionally detained, the owner or master of the ship, at any time before the person appointed under this section to survey the ship makes such survey, may require that he shall be accompanied by such person as the owner or master may select out of the list of assessors for the court of survey (nominated as hereinafter mentioned), and in such case if the surveyor and assessor agree, the Board of Trade shall cause the ship to be detained or released accordingly, but, if they differ, the Board of Trade may act as if the requisition had not been made, and the owner and master shall have the like appeal touching the report of the surveyor as is before provided by this section.

(6) Where a ship has been provisionally detained, the Board of Trade may at any time, if they think it expedient, refer the matter to the court of survey for the port or district where the ship is detained.

(7) The Board of Trade may at any time, if satisfied that a ship detained under this Act is not unsafe, order her to be released either upon or without any conditions.

(8) For the better execution of this section, the Board of Trade, with the consent of the Treasury, may from time to time appoint a sufficient number of fit officers, and may remove any of them.

(9) Any officer so appointed (in this Act referred to as a detaining officer) shall have the same power as the Board of Trade have under this

Unseaworthy and Unsafe Ships.

section of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person or persons to survey her; and if he thinks that a ship so detained by him is not unsafe may order her to be released.

(10) A detaining officer shall forthwith report to the Board of Trade any order made by him for the detention or release of a ship.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 6.]

Provisional detention by Local Government.

291*e*. The Local Government, if it has reasons to believe, on complaint or otherwise, that a British ship in any port to which it may from time to time specially extend this section, is unsafe, may provisionally order the detention of such ship for the purpose of being surveyed.

Service of grounds on master.

A written statement of the grounds of such detention shall be forthwith served on the master of such ship.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 7.]

Power to appoint surveyor.

Action on receipt of his report.

291*f*. When the Local Government provisionally orders the detention of a ship, it shall forthwith appoint some competent person to survey such ship and report thereon, and, on receiving his report, may either order the ship to be released or, if in its opinion the ship is unsafe, may order her to be finally detained.

Orders of final detention.

An order of final detention under this section may be either absolute or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, as the Local Government thinks necessary for the protection of human life; and the Local Government may, from time to time, vary or add to any such order:

Service of report on master and appeal to Court of Survey.

Provided that, before an order for final detention is made, a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master may appeal against such report, in the manner prescribed, to the court of survey (hereinafter mentioned) for the port where the ship is detained.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 8.]

Option to master or owner of appointing assessor to accompany surveyor.

291*h*. Where a ship has been provisionally detained and a person has been appointed under section eight[1] to survey such ship, the owner or master of the ship, at any time before such person makes such survey, may require that he shall take with him as assessor such person as such owner or master may select, being a person named in the list of assessors prepared under section fifteen,[2] or if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, a person of nautical, engineering or other special skill and experience; and

Procedure where surveyor and assessor agree.

In such case, if the surveyor and assessor agree that the ship should be detained or released, the Local Government shall cause the ship to be detained or released accordingly, and the owner or master shall have no appeal;

[1] *See* s. 291*f*. [2] *See* s. 291 (*c*).

Unseaworthy and Unsafe Ships.

Where they differ.

But if the surveyor and assessor differ in their report, the Local Government may act as if the requisition had not been made, and the owner or master shall have such appeal touching the report of the surveyor as is hereinbefore provided.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 9.]

Power to refer to court of survey.

291*l*. Nowithstanding anything contained in section eight[1] the Local Government may at any time, when a ship has been provisionally detained, instead of following the procedure hereinbefore provided, refer the matter to the court of survey for the port where the ship is detained.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 10.]

Release of ship at any time by Local Government.

291*m*. The Local Government may at any time, if satisfied that a ship detained under this chapter[2] is not unsafe, order her to be released either upon or without any conditions.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 11.]

Detaining officers.

291*n*. For the better execution of this chapter,[1] the Local Government may, from time to time, appoint a sufficient number of fit persons as its officers, and may suspend or remove any of them.

Their powers generally.

Every officer so appointed (hereinafter referred to as a detaining officer) shall have, for the purpose of his duties under this chapter, the following powers (that is to say)—

(*a*) he may go on board any British ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage;

(*b*) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any enquiries he thinks fit to make;

(*c*) he may require and enforce the production of all books, papers or documents which he considers important; and

(*d*) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 11.]

Their power to order provisional detention and survey.

291*o*. Every detaining officer shall, in addition the powers hereinbefore conferred, have the same power as the Local Government has under sections seven and eight, respectively, of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person to survey her; and if he thinks that a ship so detained by him is not unsafe, may order her to be released.

Detaining officer to report to

Every such officer shall forthwith report to the Local Government any

[1] See s. 291*j*.

[2] Chapter II, Act VII of 1880 (ss. 3 to 53). See note to p. 491.

Unseaworthy and Unsafe Ships.

Local Government. Enforcing detention of ship.

order made by him for the detention or release of a ship.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 12.]

291*p*. Where under the Merchant Shipping Acts, 1854 to 1876, or any of them, a ship is authorised or ordered to be detained, any commissioned officer on full pay in the naval or military service of Her Majesty, or any officer of the Board of Trade or Customs, or any British Consular officer may detain the ship, and if the ship after such detention or after service on the master of any notice of or order for such detention proceeds to sea before it is released by competent authority, the master of the ship, and also the owner, and any person who sends the ship to sea, if such owner or person be party or privy to the offence, shall forfeit and pay to Her Majesty a penalty not exceeding one hundred pounds.

Where a ship so proceeding to sea takes to sea when on board thereof in the execution of his duty any officer authorised to detain the ship, or any surveyor or officer of the Board of Trade or Customs, the owner and master of the ship shall each be liable to pay all expenses of and incidental to the officer or surveyor being so taken to sea, and also a penalty not exceeding one hundred pounds, or, if the offence is not prosecuted in a summary manner, not exceeding ten pounds for every day until the officer or surveyor returns, or until such time as would enable him after leaving the ship to return to the port from which he is taken, and such expenses may be recovered in like manner as the penalty.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 34.]

Who may enforce detention of ship.

291*q*. When under this chapter[1] a ship is authorised or ordered to be detained, any commissioned officer on full pay in the naval or military service of Her Majesty, any commander or first officer of any of Her Majesty's Indian Government ships, or any port officer, harbour master, conservator of a port or officer of Customs may detain the ship.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 45.]

Penalty for proceeding to sea after detention.

291*r*. If any ship after such detention, or after service on the master of any notice of or order for such detention, proceeds to sea before she is released by competent authority, the master of the ship shall be punished with fine which may extend to one thousand rupees.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 46.]

Penalty for carrying to sea officer in execution of his duty.

291*s*. When a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any person authorised under this chapter to detain or survey such ship, the owner and master of such ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea, and shall also each be punished with fine which may extend to one thousand rupees.

When any owner or master is convicted of an offence under this section, the convicting magistrate may enquire into and determine the amount pay-

[1] Chapter II, Act VII of 1880, ss. 3 to 53. See note to p. 491.

able on account of expenses by such owner or master under this section, and may direct that the same shall be recovered from him in manner provided for the recovery of fines.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 47.]

Unseaworthy and Unsafe Ships.

291*t*. (1) A detaining officer shall have for the purpose of his duties under this Act the same powers as an inspector appointed by the Board of Trade under the Merchant Shipping Act, 1854.

Supplemental provisions as to detention of ship.

(2) An order for the detention of a ship, provisional or final, and an order varying the same, shall be served as soon as may be on the master of the ship.

(3) When a ship has been detained under this Act she shall not be released by reason of her British register being subsequently closed.

(4) For the purposes of a survey of a ship under this Act any person authorised to make the same may go on board the ship and inspect the same and every part thereof, and the machinery, equipments, and cargo, and may require the unloading or removal of any cargo, ballast, or tackle.

(5) The provisions of the Merchant Shipping Act, 1854, with respect to persons who wilfully impede an inspector, or disobey a requisition or order of an inspector, shall apply as if those provisions were herein enacted, with the substitution for the inspector of any judge, assessor, officer, or surveyor who under this Act has the same powers as an inspector or has authority to survey a ship.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 12.]

Detained ship not to be released because British registry closed.

291*u*. When a ship has been detained under this chapter[1] she shall not be released by reason of her British or British Indian register being subsequently closed.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 48.]

Powers of person authorised to survey ship.

291*v*. For the purposes of the survey of a ship under this chapter,[1] any person authorised to make the same may go on board the ship and inspect the same, and every part thereof, and the machinery, equipments and any cargo, ballast or tackle.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 49.]

Service of order on master, &c.

291*w*. Where any order, notice, statement, or document requires, for the purpose of any provision of this Act, to be served on the master of a ship, the same shall be served, where there is no master, and the ship is in the United Kingdom, on the managing owner of the ship, or if there is no managing owner on some agent of the owner residing in the United Kingdom, or where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

Any such order, notice, statement, or document may be served by delivering a copy thereof personally to the person to be served, or by leaving the

[1] Chapter II, Act VII of 1880, ss. 3 to 53. See note to p. 491.

Unseaworthy and Unsafe Ships.

same at his last place of abode, or in the case of a master by leaving it for him on board the ship with the person being or appearing to be in command or charge of such ship.

Any person who obstructs the service of any order, notice, statement, or document on the master of a ship shall incur a penalty not exceeding ten pounds, and if the owner or master of the ship is party or privy to such obstruction he shall be guilty of a misdemeanour.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 35.]

Service of order, where there is no master or resident owner, &c.

291*x*. Where any order, notice, statement, or document is required for the purpose of any provision of this chapter[1] to be served on the master of a ship, the same shall be served, where there is no master, on the owner of the ship, if he resides in the port where the ship is detained, or, if there is no owner residing there, on some agent of the owner residing there; or where such owner or agent is unknown or cannot be found, a copy of such order, notice, statement, or document shall be affixed to the mast of the ship, and shall thereupon be deemed to be duly served.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 51.]

Order, &c., how to be served.

291*y*. Any such order, notice, statement, or document may be served by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode, or, in the case of a master, by leaving it for him on board the ship with the person being or appearing to be in command or charge of the ship.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 52.]

Court of Survey.

Of the Court of Survey, and of Appeals and Reference thereto.

Constitution of court of survey for appeals.

291*z*. A court of survey for a port or district shall consist of a judge sitting with two assessors.

The judge shall be such person as may be summoned for the case in accordance with the rules made under this Act out of a list (from time to time approved for the port or district by one of Her Majesty's principal Secretaries of State, in this Act referred to as a Secretary of State) of wreck commissioners appointed under this Act, stipendiary or metropolitan police magistrates, judges of county courts, and other fit persons; but in any special case in which the Board of Trade think it expedient to appoint a wreck commissioner, the judge shall be such wreck commissioner.

The assessors shall be persons of nautical engineering or other special skill and experience; one of them shall be appointed by the Board of Trade, either generally or in each case, and the other shall be summoned in accordance with the rules under this Act by the registrar of the court, out of a list of persons periodically nominated for the purpose by the local marine board of the port, or, if there no is such board, by a body of local shipowners or merchants approved for the purpose by Secretary of State, or, if there is no such list,

[1] Chapter II, Act VII of 1880, ss. 5 to 53. See note to p. 491.

shall be appointed by the judge; if a Secretary of State thinks fit at any time, on the recommendation of the Government of any British possession or any foreign state, to add any person or persons to any such list, such person or persons shall, until otherwise directed by the Secretary of State, be added to such list, and if there is no such list shall form such list. *Court of Survey.*

The county court registrar or such other fit person as a Secretary of State may from time to time appoint shall be the registrar of the court, and shall, on receiving notice of an appeal or a reference from the Board of Trade, immediately summon the court in the prescribed manner to meet forthwith.

The name of the registrar and his office, together with the rules made under this Act relating to the court of survey, shall be published in the prescribed manner.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 7.]

Constitution of court of survey.

291 (*1a*). A court of survey for a port shall consist of a judge sitting with two assessors.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 13.]

The judge.

291 (*1b*). The judge shall be a district judge, judge of a court of small causes, presidency magistrate, magistrate of the 1st class or other fit person appointed in this behalf by the Local Government either generally or for any specified case.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 14.]

The assessors.

291 (*1c*). The assessors shall be persons of nautical, engineering or other special skill and experience.

One of them shall be appointed by the Local Government either generally or in each case, and the other shall be summoned by the judge, in the manner prescribed, out of a list of persons from time to time prepared for the purpose and published by Local Government in the official gazette, or, if there is no such list or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the judge.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 15.]

Judge to summon assessors.

291 (*1d*). The judge shall, on receiving notice of an appeal or a reference from the Local Government, immediately summon the assessors in the manner prescribed to meet forthwith.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 16.]

Power and procedure of court of survey.

291 (*1e*). With respect to the court of survey the following provisions shall have effect:

(1) The case shall be heard in open court;

(2) The judge and each assessor may survey the ship, and shall have for the purposes of this Act all the powers of an inspector appointed by the Board of Trade under the Merchant Shipping Act, 1854;

(3) The judge may appoint any competent person or persons to survey the ship and report thereon to the court;

(4) The judge shall have the same power as the Board of Trade have to order the ship to be released or finally detained, but unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released;

Court of Survey.

(5) The owner and master of the ship and any person appointed by the owner or master, and also any person appointed by the Board of Trade, may attend at any inspection or survey made in pursuance of this section;

(6) The judge shall send to the Board of Trade the prescribed report, and each assessor shall either sign the report or report to the Board of Trade the reasons for his dissent.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 8.]

Case to be heard in open court.

291 (*1f*). Every such appeal and reference shall be heard in open court.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 17.]

Powers of judge and assessors.

291 (*1g*). The judge and each assessor shall, for the purposes of this chapter, have the same powers as are by section eleven[1] conferred on a detaining officer.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 18.]

Judge may appoint surveyor.

291 (*1h*). The judge may appoint any competent person to survey the ship and report thereon to the court.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 19.]

Owner or master may attend at survey.

291 (*1i*). The owner and master of the ship and any person appointed by the owner or master, and also any person appointed by the Local Government, may attend at any inspection or survey made in exercise or pursuance of the powers conferred by section eighteen or nineteen.[2]—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 20.]

Power of judge to detain or release ship.

291 (*1j*). The judge shall have the same power as the Local Government has to order the ship to be released or finally detained; but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 21.]

Report to Local Government by judge.

291 (*1k*). The Judge shall report the proceedings of the court in each case to the Local Government in the manner prescribed, and each assessor shall either sign such report or report to the Local Government the reasons for his dissent.—[Indian Merchant Shiping Act, 1880—Act VII of 1880, s. 22.]

Rules for procedure of courts of survey, &c.

291 (*1l*). The Lord Chancellor of Great Britain may, from time to time (with the consent of the Treasury so far as relates to fees), make, and, when made, revoke, alter, and add to general rules to carry into effect the provisions of this Act with respect to a court of survey, and in particular with respect to the summoning of, and procedure before, the court, the requiring on an appeal security for costs and damages, the amount and application of fees, and the publication of the rules.

All such rules while in force shall have effect as if enacted in this Act, and the expression "prescribed" in the provisions of this Act relating to the detention of ships or court of survey means prescribed by such rules.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 9.]

Power of Local Government to make rules with respect to court of survey.

291 (*1m*). The Local Government may, with the previous sanction of the Governor General in Council, from time to time make rules to carry into

[1] *See* s. 291*a*.

[2] Secs. 291 (*1g*) and 291 (*1h*).

effect the provisions of this chapter with respect to a court of survey, and in particular with respect to— *Court of Survey.*

(*a*) the procedure before the court;

(*b*) the requiring, on an appeal, of security for costs and damages;

(*c*) the amount and application of fees; and

(*d*) the ascertainment, in case of dispute, of the proper amount of costs under this chapter.

Such rules shall be published in the official Gazette, and shall thereupon have the force of law.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 23.]

Costs of Detention and Damages incidental thereto.

Court of Survey costs of detention.

Liability of Board of Trade and ship-owner for costs and damages.

291 (*1a*). If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of the ship, the Board of Trade shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention of survey.

If a ship is finally detained under this Act, or if it appears that a ship provisionally detained was, at the time of such detention, unsafe within the meaning of this Act, the owner of the ship shall be liable to pay to the Board of Trade their costs of and incidental to the detention and survey of the ship; and those costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

For the purposes of this Act, the costs of and incidental to any proceeding before a court of survey, and a reasonable amount in respect of the remuneration of the surveyor or officer of the Board of Trade, shall be deemed to be part of the costs of the detention and survey of the ship, and any dispute as to the amount of costs under this Act may be referred to one of the masters or registrars of the Supreme Court of Judicature, who, on request made to him for that purpose by the Board of Trade, shall ascertain and certify the proper amount of such costs.

An action for any costs or compensation payable by the Board of Trade under this section may be brought against the secretary thereof by his official title as if he were a corporation sole; and if the cause of action arises in Ireland, it shall be lawful for any of the superior courts of common law in Ireland in which such action may be commenced to order that the summons or writ may be served on the Crown and Treasury Solicitor for Ireland, in such manner and on such terms as to extension of time and otherwise as to the court shall seem fit, and that such service shall be deemed good and sufficient service of such summons or writ upon the Secretary of the Board of Trade.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 10.]

Liability of Government for costs and

291 (*1b*). If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the

Costs of survey, costs of detention.

Damages when ship wrongly detained.

provisional detention of a ship, the Government shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 27.]

Liability of ship-owner for costs when ship rightly detained.

291 (*p*). If a ship is finally detained under this chapter, or if it appears that a ship provisionally detained was at the time of such detention unsafe, the owner of the ship shall be liable to pay to Government its costs of and incidental to the detention and survey of the ship; and such costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 28.]

What included in costs of detention and survey.

291 (*q*). For the purposes of this chapter[1] the costs of and incidental to any proceeding before a court of survey, and a reasonable amount in respect of the remuneration of the surveyor or officer of the Local Government, shall be deemed to be part of the costs of the detention and survey of the ship.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 29.]

Power to require from complainant security for costs.

291 (*r*). Where a complaint is made to the Board of Trade or a detaining officer that a British ship is unsafe, the Board or officer may, if they or he think fit, require the complainant to give security to the satisfaction of the Board for the costs and compensation which he may become liable to pay as hereinafter mentioned:

Provided that where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of the Board or officer frivolous or vexatious, such security shall not be required, and the Board or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained under this Act.

Where a ship is detained in consequence of any complaint, and the circumstances are such that the Board of Trade are liable under this Act to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Board of Trade all such costs and compensation as the Board incur or are liable to pay in respect of the detention and survey of the ship.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 11.]

Power to require from complainant security for costs, &c.

291 (*s*). When a complaint is made to the Local Government or a detaining officer that a British ship is unsafe, it shall be in the discretion of such Government or officer (as the case may be) to require the complainant to give security to the satisfaction of such Government or officer for the costs and compensation which such complainant may become liable to pay as hereinafter mentioned:

Proviso as to complaint by one-fourth of crew.

Provided that, where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of such Government or officer frivolous or vexatious, such security shall not be required; and such Government or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain

[1] Chapter II, sec. s. 302*A*.

whether the ship ought to be detained under this chapter.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 30.]

Court of Survey to report if detention.

291 (*lt*). Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this chapter to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs, or is liable to pay, in respect of the detention and survey of the ship.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 31.]

Costs, &c., payable by Government, recoverable from complainant.

Scientific Referees.

Scientific Referees.

291 (*lu*). If the Board of Trade are of opinion that an appeal under this Act involves a question of construction or design of scientific difficulty or important principle, they may refer the matter to such one or more out of a list of scientific referees from time to time approved by a Secretary of State, as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between the Board of Trade and the appellant, or in default of any such agreement by a Secretary of State, and thereupon the appeal shall be determined by the referee or referees, instead of by the court of survey. The Board of Trade, if the appellant in any appeal so require and give security to the satisfaction of the Board to pay the costs of and incidental to the reference, shall refer that appeal to a referee or referees so selected as aforesaid.

Reference in difficult cases to scientific persons.

The referee or referees shall have the same powers as a judge of the court of survey.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 15.]

291 (*lv*). If the Local Government is of opinion that an appeal under this chapter involves a question of construction or design, or of scientific difficulty or important principle, it may refer the matter to such one or more out of a list of scientific referees, to be from time to time prepared by the Local Government, as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between the Port-officer and the appellant, or, in default of any such agreement, by the Local Government; and thereupon the appeal shall be determined by the referee or referees instead of by the court of survey.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 24.]

Power to appoint referee to hear appeal.

291 (*lw*). The Local Government, if the appellant in any such appeal so requires and gives security to its satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 25.]

Option to appellant to require referee to be appointed.

291 (*lx*). The referee or referees to whom an appeal is referred under section twenty-four or section twenty-five shall have the same powers as a judge of the court of survey.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 26.]

Referee to have power of Court of Survey.

Scientific Referees.

Certain persons to be deemed public servants.

291 (*1g*). Every judge, assessor, officer, or surveyor under this chapter shall be deemed to be a public servant within the meaning of the Indian Penal Code.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 50.]

Detention of Foreign Ships.

Application to foreign ships of provisions as to detention.

Foreign Ships, overloading.

291 (*1z*). Where a foreign ship has taken on board all or any part of her cargo at a port in the United Kingdom, and is whilst at that port unsafe by reason of overloading or improper loading, the provisions of this Act with respect to the detention of ships shall apply to that foreign ship as if she were a British ship, with the following modifications—

(1) A copy of the order for the provisional detention of the ship shall be forthwith served on the Consular officer for the State to which the ship belongs at or nearest to the place where the ship is detained;

(2) Where a ship has been provisionally detained, the Consular officer, on the request of the owner or master of the ship, may require that the person appointed by the Board of Trade to survey the ship shall be accompanied by such person as the Consular officer may select, and in such case, if the surveyor and such person agree, the Board of Trade shall cause the ship to be detained or released accordingly, but if they differ, the Board of Trade may act as if the requisition had not been made, and the owner and master shall have the appeal to the court of survey touching the report of the surveyor which is before provided by this Act; and

(3) Where the owner or master of the ship appeals to the court of survey, the Consular officer, on the request of such owner or master, may appoint any competent person who shall be assessor in such case in lieu of the assessor who, if the ship were a British ship, would be appointed otherwise than by the Board of Trade.

In this section the expression "Consular officer" means any Consul-General, Vice-Consul, Consular agent, or other officer recognised by a Secretary of State as a Consular officer of a foreign state.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 13.]

Fees, salaries, and pay.

291 (*2a*). On and after the first day of January one thousand eight hundred and seventy-seven all fees payable in respect of the survey or measurement of ships under the Merchant Shipping Acts, 1854 to 1876, or in respect of any services performed by any person employed under the authority of the Passengers Act, 1855, shall continue to be paid to the superintendent of a mercantile marine office at such times and in such manner as the Board of Trade from time to time direct, but shall be paid into the receipt of Her Majesty's Exchequer in such manner as the Treasury from time to time direct, and shall be carried to, and form part of, the Consolidated Fund of the United Kingdom.

On and after the same day the salaries of all surveyors appointed under the

Merchant Shipping Acts, 1854 to 1876, and so much of the expenses connected with the survey and measurement of ships under those Acts, and of the salaries and expenses of persons employed under the Passengers Act, 1855,[1] as has heretofore been paid out of the mercantile marine fund, shall be paid out of moneys provided by Parliament, and the Treasury shall have the like control over such salaries and expenses as has heretofore been vested in the Board of Trade.

Detention of foreign ships.

There may be paid out of moneys provided by Parliament to any wreck commissioner, judge of a court of survey, assessor, registrar of a court of survey, detaining officer, scientific referee, and other officer or person appointed under this Act, such salary or remuneration (if any) as the Treasury from time to time direct.

There may be paid out of moneys provided by Parliament all costs and compensation payable by the Board of Trade in pursuance of this Act.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 39.]

Boats for Sea-going Ships.

Boats for sea-going ships.

Rules as to boats and life-buoys.

292. The following rules shall be observed with respect to boats and life-buoys (that is to say)—

(1) No decked ship (except ships used solely as steam tugs, and ships engaged in the whale fishery) shall proceed to sea from any place in the United Kingdom, unless she is provided, according to her tonnage, with boats duly supplied with all requisites for use, and not being fewer in number nor less in their cubic contents than the boats the number and cubic contents of which are specified in the table marked "S" in the schedule hereto for the class to which such ship belongs:

(2) No ship carrying more than ten passengers shall proceed to sea from any place in the United Kingdom, unless, in addition to the boats hereinbefore required, she is also provided with a life-boat furnished with all requisites for use, or unless one of her boats hereinbefore required is rendered buoyant after the manner of a life-boat:

(3) No such ship as last aforesaid shall proceed to sea unless she is also provided with two life-buoys:

And such boats and life-buoys shall be kept so as to be at all times fit and ready for use: Provided that the enactments with respect to boats and life-buoys herein contained shall not apply in any case in which a certificate has been duly obtained under the tenth section of the "Passengers Act, 1852."[1]

[illegible] 14 & 15 Vic., c. 19.

[1] Section 10 of the Act, 15 & 16 Vic., c. 44, which is repealed by 18 & 19 Vic., c. 119, s. 1, was as follows:

"No ship fitted or intended for the carriage of passengers as a 'passenger ship' shall clear out or proceed to sea until the master thereof shall have obtained from the emigration officer at the port of clearance a certificate under his hand that all the requirements of this Act, so far as the same can be complied with before the departure of such ship, have been duly complied with, nor until the master shall have joined in executing such bond to the Crown as required by the fifty-ninth section of this Act."

Rules for Merchant Ships.

Table S. (See Section 292.)

Number and Dimensions of Boats with which Sea-going Ships are to be provided.

Registered Tonnage.		Column 1. To be carried by Sailing Ships and Steam Ships.								Column 2. To be carried by Sailing Ships, and by Steam Ships when they do not carry the Boats in Col. 3.				Column 3. To be carried by Steam Ships which do not carry the Boat in Col. 2.								Total Number of Boats.	
		Pears.				Boats.				Launches.				Boats.				Life-boats.					
Sailing Ships.	Steam Ships.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Sailing ships.	Steam ships.
Tons.	Tons.		Ft.	Ft. In.	Ft. In.		Ft.	Ft. In.	Ft. In.		Ft.	Ft. In.	Ft. In.		Ft.	Ft. In.	Ft. In.		Ft.	Ft. In.	Ft. In.		
	1,000 and upwards .	1	18	5 6	2 3	2	24	5 6	2 6	1	27	8 6	3 8	2	22	5 6	2 6	2	28	8 6	3 6	...	7
	800 to 1,000 . .	1	18	5 6	2 3	2	26	6 6	2 8	1	20	8 0	3 8	2	22	5 6	2 6	...	...	...	...	...	4 or 5
800 and upwards .	500 to 800 . .	1	18	5 6	2 3	2	24	5 6	2 6	1	26	8 0	3 8	2	22	5 6	2 6	...	...	...	...	4	4 or 5
600 to 800 . .	300 to 500 . .	1	18	5 6	2 3	2	24	5 6	2 6	1	25	7 0	3 6	2	22	5 6	2 6	...	...	...	...	4	4 or 5
400 to 600 . .	240 to 300 . .	1	16	5 6	2 3	1	22	5 6	2 5	1	22	6 6	3 3	2	22	5 6	2 6	...	...	...	...	3	3 or 4
200 to 400 . .	120 to 240 . .	1	14	5 0	2 2	...	...	...	...	1	20	6 0	3 0	2	22	5 6	2 6	...	...	...	...	2	2 or 3
100 to 200 . .	60 to 120 . .	1	14	5 0	2 2	...	...	...	...	1	16	5 6	2 9	2	18	5 6	2 4	...	...	...	...	2	2 or 3
Under 100 . .	Under 60 . .	1	14	5 0	2 2	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	1

Note.—In sailing ships carrying the number of boats above specified, and steam ships carrying the larger of the two numbers above specified, the boats are to be considered sufficient if their aggregate cubic contents are equal to the aggregate cubic contents of the boats specified.

In steam ships carrying the smaller of the two numbers above specified, one of the boats must be a launch of the capacity specified in col. 2.

In sailing ships of 200 tons burden and under, not carrying passengers, a dingy may be substituted for the boat in col. 1.

In sailing ships of 150 tons burden and under, not carrying passengers, a substantial boat of capacity sufficient to carry the crew may be substituted for those above specified.

In all steam ships two paddlebox boats may be substituted for any two of the boats in col. 3.

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Boats for Ships.

Penalties on masters and owners for neglecting to provide boats and life-buoys.

293. In any of the following cases (that is to say)—

(1) If any ship hereinbefore required to be provided with boats or life-buoys proceeds to sea without being so provided therewith, or if any of such boats or life-buoys are lost or rendered unfit for service in the course of the voyage through the wilful fault or negligence of the owner or master; or

(2) If, in case of any of such boats or life-buoys being accidentally lost or injured in the course of the voyage, the master wilfully neglects to replace or repair the same on the first opportunity; or

(3) If such boats and life-buoys are not kept so as to be at all times fit and ready for use;

Then if the owner appears to be in fault he shall incur a penalty not exceeding one hundred pounds, and if the master appears to be in fault he shall incur a penalty not exceeding fifty pounds.

Power for Board of Trade to vary number and dimensions of boats.

293*a*. In the case of any ship surveyed under the fourth part of the Merchant Shipping Act, 1854, the Board of Trade may at the request of the owner authorise the reduction of the number and the variation of the dimensions of the boats required for the ship by section 292 of that Act, and also the substitution of rafts or other appliances for saving life for any such boats, so nevertheless that the boats so reduced or varied and the rafts or other appliances so substituted be sufficient for the persons carried on board the ship.

Section 293 of the said Act shall extend to any such rafts or appliances in the same manner as if they were boats.—[Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 15.]

Officers of Customs not to clear ships not complying with the above provisions.

294. No officer of Customs shall grant a clearance or transire for any ship hereinbefore required, to be provided with boats or with life-buoys unless the same is duly so provided; and if any such ship attempts to go to sea without such clearance or transire, any such officer may detain her until she is so provided.

Sections of Merchant Shipping Act applied to steam-vessels proceeding to sea from ports in Bombay.

294*a*. It is hereby declared that sections 292, 293, and 294 of the Merchant Shipping Act (17 & 18 Vic., chap. 104), and schedule S of that Act, are and shall be applicable to all steam-vessels proceeding to sea from any port or place in the presidency of Bombay or its dependencies, and that, in calculating the penalties mentioned in the said section 293, ten rupees be taken as the equivalent for one pound sterling.—[Survey of Steamers—Bom. Act II of 1864, s. 15.]

Light and Fog Signals, and Meeting and Passing.

Rules as to Lights, Fog Signals, Meeting and Passing.

295. *The following rules shall be observed with regard to lights and fog signals (that is to say)*—

Regulations as to lights and fog signals.

(1) *The Admiralty shall from time to time make regulations requiring the exhibition of such lights by such classes of ships, whether steam or*

Rules as to lights, &c., sailing and fog signals.

sailing ships, within such places and under such circumstances as they think fit, and may from time to time revoke, alter, or vary the same:

(2) *The Admiralty may, if they think fit, make regulations requiring the use of such fog signals, by such classes of ships, whether steam or sailing ships, within such places and under such circumstances as they think fit, and may from time to time revoke, alter, or vary the same:*

(3) *All regulations made in pursuance of this section shall be published in the London Gazette, and shall come into operation on a day to be named in the gazette in which they are published, and the Admiralty shall cause all such regulations to be printed, and shall furnish a copy thereof to any owner or master of a ship who applies for the same; and production of the gazette containing such regulations shall be sufficient evidence of the due making and purport thereof:*

(4) *All owners and masters shall be bound to take notice of the same, and shall, so long as the same continue in force, exhibit such lights, and use such fog signals, at such times, within such places, in such manner, and under such circumstances as are enjoined by such regulations, and shall not exhibit any other lights or use any other fog signals, and in case of default the master, or the owner of the ship, if it appears that he was in fault, shall for each occasion upon which such regulations are infringed, incur a penalty not exceeding twenty pounds.*—[Repealed by Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 2.]

Rule as to ships meeting each other.

296. *Whenever any ship, whether a steam or sailing ship, proceeding in one direction, meets another ship, whether a steam or sailing ship, proceeding in another direction, so that if both ships were to continue their respective courses they would pass so near as to involve any risk of a collision, the helms of both ships shall be put to port so as to pass on the port side of each other: and this rule shall be obeyed by all steam ships and by all sailing ships whether on the port or starboard tack, and whether close-hauled or not, unless the circumstances of the case are such as to render a departure from the rule necessary in order to avoid immediate danger, and subject also to the proviso that due regard shall be had to the dangers of navigation and as regards sailing ships on the starboard tack close-hauled, to the keeping such ships under command.*—[Repealed by Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 2.]

Rule for steamers in narrow channels.

297. *Every steam-ship, when navigating any narrow channel, shall, whenever it is safe and practicable, keep to that side of the fairway or mid-channel which lies on the starboard side of such steam-ship.*—[Repealed by Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 2.]

If collision arises from breach of above.

298. *If in any case of collision it appears to the court before which the case is tried that such collision was occasioned by the non-observance of any*

rule for the exhibition of lights of the use of fog signals issued in pursuance of the powers hereinbefore contained, or of the foregoing rule as to a steam-ship keeping to that side of a narrow channel which lies on the starboard side, the owner of the ship by which such rule has been infringed shall not be entitled to recover any recompense whatever for any damage sustained by each ship in such collision, unless it is shown to the satisfaction of the court that this circumstance of the case made a departure from the rule necessary.—[Repealed by Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 2.]

Rules as to Lights, &c., Meeting and Passing.

rules, or not not to be entitled to recover.

299. *In case any damage to person or property arises from the non-observance by any ship of any of the said rules, such damage shall be deemed to have been occasioned by the wilful default of the person in charge of the deck of such ship at the time, unless it is shown to the satisfaction of the court that the circumstances of this case made a departure from the rule necessary.*—[Repealed by Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 2.]

Breaches of such rules to imply wilful default.

Safety and Regulations for preventing Collisions.

Safety and Regulations for preventing Collisions.

299*a*. On and after the first day of June one thousand eight hundred and sixty-three, or such later day as may be fixed for the purpose by Order in Council, the regulations contained in the table marked (C) in the schedule hereto shall come into operation, and be of the same force as if they were enacted in the body of this Act; but Her Majesty may from time to time, on the joint recommendation of the Admiralty and the Board of Trade, by Order in Council, annul or modify any of the said regulations, or make new regulations in addition thereto or in substitution therefor; and any alterations in or additions to such regulations made in manner aforesaid shall be of the same force as the regulations in the said schedule.

Regulations concerning lights and fog signals, and sailing rules in schedule table C.

TABLE C. (See Section 25.)

Regulations for preventing Collisions at Sea.

Contents.

Article 1. Preliminary.

Rules concerning Lights.

2. Lights to be carried as follows:—
3. Lights for steam ships.
4. Lights for steam tugs.
5. Lights for sailing ships.
6. Exceptional light for small sailing vessels.
7. Lights for ships at anchor.
8. Lights for pilot vessels.
9. Lights for fishing vessels and boats.

Rules concerning Fog Signals.

10. Fog signals.

Sailing and Regulations for preventing Collisions.

Steering and Sailing Rules.

11. Two sailing ships meeting.
12. Two sailing ships crossing.
13. Two ships under steam meeting.
14. Two ships under steam crossing.
15. Sailing ship and ship under steam.
16. Ships under steam to slacken speed.
17. Vessels overtaking other vessels.
18. Construction of articles 12, 14, 15, and 17.
19. Proviso to save special cases.
20. No ship under any circumstances to neglect proper precautions.

Preliminary.

ART. 1. In the following rules every steam ship which is under sail and not under steam is to be considered a sailing ship; and every steam ship which is under steam, whether under sail or not, is to be considered a ship under steam.

Rules concerning Lights.

ART. 2. The lights mentioned in the following articles, and no others, shall be carried in all weathers between sunset and sunrise:

ART. 3. Sea-going steam ships when under weigh shall carry—

(*a*) *At the foremast head*, a bright white light so fixed as to show a uniform and unbroken light over an arc of the horizon of 20 points of the compass, so fixed as to throw the light 10 points on each side of ship, *viz.*, from right ahead to 2 points abaft the beam on either side, and of such a character as to be visible on a dark night with a clear atmosphere at a distance of at least five miles:

(*b*) *On the starboard side*, a green light so constructed as to throw a uniform and unbroken light over an arc of the horizon of 10 points of the compass, so fixed as to throw the light from right ahead to 2 points abaft the beam on the starboard side, and of such a character as to be visible on a dark night with a clear atmosphere at a distance of at least two miles:

(*c*) *On the port side*, a red light, so constructed as to show a uniform unbroken light over an arc of the horizon of 10 points of the compass, so fixed as to throw the light from right ahead to 2 points abaft the beam on the port side, and of such a character as to be visible on a dark night with a clear atmosphere at a distance of a least two miles.

(*d*) The said green and red side lights shall be fitted with inboard screens projecting at least three feet forward from the light, so as to prevent these lights from being seen across the bow.

ART. 4. Steam ships when towing other ships shall carry two bright white mast-head lights vertically, in addition to their side lights, so as to distinguish them from other steam ships. Each of these mast-head lights shall be of the same construction and character as the mast-head lights which other steam ships are required to carry.

ART. 5. Sailing ships under weigh or being towed shall carry the same lights as steam ships under weigh, with the exception of the white mast-head lights, which they shall never carry.

ART. 6. Whenever, as in the case of small vessels during bad weather, the green and red lights cannot be fixed, these lights shall be kept on deck on their respective sides of the vessel ready for instant exhibition, and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side, nor the red light on the starboard side.

To make the use of these portable lights more certain and easy, they shall each be painted outside with the colour of the light they respectively contain, and shall be provided with suitable screens.

Safety and Regulations for preventing Collisions.

ART. 7. Ships, whether steam ships or sailing ships, when at anchor in roadsteads or fairways shall between sunrise and sunset exhibit, where it can best be seen, but at a height not exceeding twenty feet above the hull, a white light in a globular lantern of eight inches in diameter, and so constructed as to show a clear uniform and unbroken light visible all round the horizon, and at a distance of at least one mile.

ART. 8. Sailing pilot vessels shall not carry the lights required for other sailing vessels, but shall carry a white light at the mast-head visible all round the horizon, and shall also exhibit a flare-up light every fifteen minutes.

ART. 9. Open fishing boats and other open boats shall not be required to carry side lights required for other vessels; but shall, if they do not carry such lights, carry a lantern having a green slide on the one side and a red slide on the other side; and on the approach of or to other vessels such lantern shall be exhibited in sufficient time to prevent collision so that the green light shall not be seen on the port side nor the red light on the starboard side.

Fishing vessels and open boats when at anchor or attached to their nets and stationary shall exhibit a bright white light.

Fishing vessels and open boats shall, however, not be prevented from using a flare-up in addition, if considered expedient.

Rules concerning Fog Signals.

ART 10. Whenever there is fog, whether by day or night, the fog signals described below shall be carried and used, and shall be sounded at least every five minutes, *viz.*—

(*a*) Steam ships under weigh shall use a steam whistle placed before the funnel not less than eight feet from the deck.

(*b*) Sailing ships under weigh shall use a fog horn.

(*c*) Steam ships and sailing ships when not under weigh shall use a bell.

Steering and Sailing Rules.

ART. 11. If two sailing ships are meeting end on, or nearly end on, so as to involve risk of collision, the helms of both shall be put to port, so that each may pass on the port side of the other.

ART. 12. When two sailing ships are crossing so as to involve risk of collision, then if they have the wind on different sides, the ship with the wind on the port side shall keep out of the way of the ship with the wind on the starboard side, except in the case in which the ship with the wind on the port side is close hauled and the other ship free, in which case the latter ship shall keep out of the way; but if they have the wind on the same side, or if one of them has the wind aft, the ship which is to windward shall keep out of the way of the ship which is to leeward.

ART. 13. If two ships under steam are meeting end on, or nearly end on, so as to involve risk of collision, the helms of both shall be put to port so that each may pass on the port side of the other.

ART. 14. If two ships under steam are crossing so as to involve risk of collision, the ship which has the other on her own starboard side shall keep out of the way of the other.

ART. 15. If two ships, one of which is a sailing ship and the other a steam ship, are proceeding in such directions as to involve risk of collision, the steam ship shall keep out of the way of the sailing ship.

ART. 16. Every steam ship, when approaching another ship so as to involve risk of collision, shall slacken her speed, or, if necessary, stop and reverse; and every steam ship shall, when in a fog, go at a moderate speed.

Safety and Regulations for preventing Collisions.

ART. 17. Every vessel overtaking any other vessel shall keep out of the way of the said last-mentioned vessel.

ART. 18. Where by the above rules one of two ships is to keep out of the way the other shall keep her course, subject to the qualifications contained in the following article.

ART. 19. In obeying and construing these rules due regard must be had to all dangers of navigation; and due regard must also be had to any special circumstances which may exist in any particular case rendering a departure from the above rules necessary in order to avoid immediate danger.

ART. 20. Nothing in these rules shall exonerate any ship or the owner or master or crew thereof from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper look-out, or of the neglect of any precaution which may be required by the ordinary practice of seamen or by the special circumstances of the case.

[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 25.]

Regulations to be published.

Evidence of regulations.

299*b*. The Board of Trade shall cause the said regulations and any alterations therein or additions thereto hereafter to be made to be printed, and shall furnish a copy thereof to any owner or master of a ship who applies for the same; and production of the Gazette in which any Order in Council containing such regulations or any alterations therein or additions thereto is published, or of a copy of such regulations, alterations, or additions signed or purporting to be signed by one of the secretaries or assistant secretaries of the Board of Trade, or sealed or purporting to be sealed with the seal of the Board of Trade, shall be sufficient evidence of the due making and purport of such regulations, alterations, or additions.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 26.]

Owners and masters bound to obey them.

299*c*. All owners and masters of ships shall be bound to take notice of all such regulations as aforesaid, and shall, so long as the same continue in force, be bound to obey them, and to carry and exhibit no other lights and to use no other fog signals than such as are required by the said regulations; and in case of wilful default, the master, or the owner of the ship, if it appears that he was in such fault, shall, for each occasion upon which such regulations are infringed, be deemed to be guilty of a misdemeanour.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 27.]

Damage from breaches of regulations to be deemed caused by wilful default of person in charge.

299*d*. In case any damage to person or property arises from the non-observance by any ship of any regulation made by or in pursuance of this Act, such damage shall be deemed to have been occasioned by the wilful default of the person in charge of the deck of such ship at the time, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulation necessary.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 28.]

Duties of masters in case of collision.

299*e*. In every case of collision between two vessels it shall be the duty of the master or person in charge of each vessel, if and so far as he can do so without danger to his own vessel, crew, and passengers (if any), to stay by the other vessel until he has ascertained that she has no need of further assistance, and to render to the other vessel, her master, crew, and passengers (if any), such assistance as may be practicable and as may be necessary in order to save

them from any danger caused by the collision; and also to give to the master or person in charge of the other vessel the name of his own vessel, and of her port of registry, or of the port of place to which she belongs, and also the names of the ports and places from which and to which she is bound.

Safety and Regulations for preventing Collisions.

If he fails so to do, and no reasonable cause for such failure is shown, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect, or default.

Every master or person in charge of a British vessel who fails, without reasonable cause, to render such assistance or give such information as aforesaid shall be deemed guilty of a misdemeanor, and if he is a certificated officer an enquiry into his conduct may be held and his certificate may be cancelled or suspended.—[Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 16.]

Liability for infringement of regulations in cases of collision.

299*f*. If in any case of collision it is proved to the court before which the case is tried that any of the regulations for preventing collision contained in or made under the Merchant Shipping Acts, 1854 to 1873, has been infringed, the ship by which such regulation has been infringed shall be deemed to be in fault, unless it is shown to the satisfaction of the court that the circumstances of the case made departure from the regulation necessary.—[Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 17.]

Proceedings for enforcing regulations.

299*g*. The following steps may be taken in order to enforce compliance with the said regulations (that is to say)—

(1) The surveyors appointed under the third part of the principal Act, or such other persons as the Board of Trade may appoint for the purpose, may inspect any ships for the purpose of seeing that such ships are properly provided with lights and with the means of making fog signals in pursuance of the said regulations, and shall for that purpose have the powers given to inspectors by the 14th section of the principal Act;

(2) If any such surveyor or person finds that any ship is not so provided, he shall give to the master or owner notice in writing, pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same;

(3) Every notice so given shall be communicated in such manner as the Board of Trade may direct to the collector or collectors of customs at any port or ports from which such ship may seek to clear or at which her transire is to be obtained; and no collector to whom such communication is made shall clear such ship outwards or grant her a transire, or allow her to proceed to sea, without a certificate under the hand of one of the said surveyors or other persons appointed by the Board of Trade as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog signals in pursuance of the said regulations.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 30.]

Rules as to lights and signals for navigation of Canadian waters.

Rules for harbours under local Acts to continue in force.

299*d*. Any rules concerning the lights or signals to be carried by vessels navigating the waters of any harbour, river, or other inland navigation, or concerning the steps for avoiding collision to be taken by such vessels, which have been or are hereafter made by or under the authority of any local Act, shall continue and be of full force and effect, notwithstanding anything in this Act or in the schedule thereto contained.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 31.]

Intermediate rules for such waters where no such rules exist.

299*e*. In the case of any harbour, river, or other inland navigation for which such rules are not and cannot be made by or under the authority of any local Act, it shall be lawful for Her Majesty in Council, upon application from the harbour trust or body corporate, if any, owning or exercising jurisdiction upon the waters of such harbour, river, or inland navigation, or, if there is no such harbour trust or body corporate, upon application from persons interested in the navigation of such waters, to make rules concerning the lights or signals to be carried, and concerning the steps for avoiding collision to be taken by vessels navigating such waters; and such rules, when so made, shall, so far as regards vessels navigating such waters, have the same effect as if they were regulations contained in table (C)[1] in the schedule to this Act, notwithstanding anything in this Act or in the schedule thereto contained.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 32.]

Inspection of Ships with regard to Light and Fog-signals.

Inspection of ships as to lights and fog-signals.

299*f*. The Local Government may, from time to time, appoint persons to inspect, in any port, ships to which the regulations for preventing collisions at sea, issued under the provisions of the Merchant Shipping Act Amendment Act, 1862, or any other similar law for the time being in force, may apply, for the purpose of seeing that such ships are properly provided with lights and with the means of making fog-signals, in pursuance of such regulations or law, and may suspend or remove any person so appointed.

Every person so appointed shall in the port for which he is appointed have, for the purposes of such inspection, the powers given to detaining-officers by section 11.[2]—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 81.]

Notice of deficiency to be given to master or owner and to Customs.

299*g*. If any such person finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 82.]

Ship not to be cleared by Customs collector till inspector certifies she is properly provided with lights, etc.

299*h*. Every notice so given shall be communicated in such manner as the Local Government may direct to the Customs collector at any port from which such ship may seek to clear; and no Customs collector to whom such communication is made shall grant such ship a port-clearance or allow her

[1] See s. 299*c*.

[2] See s. 291*a*.

to proceed to sea without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog-signals in pursuance of the said regulations or law.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 83.]

Inspection of Ships regarding lights.

299m. Nothing in this chapter[1] contained shall apply to any ship belonging to, or hired by, Her Majesty or the Secretary of State for India in Council, or belonging to any foreign Prince or State.—[Indian Merchan Shipping Act, 1862—Act VII of 1880, s. 80.]

Saving clause.

As to the fees payable for inspection of lights and fog-signals, see s. 305a.

299n. Whoever exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.—Indian Penal Code, Act XLV of 1860, s. 281.]

Exhibition of a false light, mark or buoy.

299o. Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.—[Indian Penal Code, Act XLV of 1860, s. 280.]

Rash navigation of a vessel.

As to the power of the Local Government to make rules regulating the use of fires and lights in port,[2] see s. 328a.

Build and Equipment of Steam Ships.

Build and Equipment of Steam Ships.

300. *The following rules shall be observed with respect to the build of iron steam ships (that is to say)*

Iron steamer to be divided by water-tight partitions.

(1) *Every steam ship built of iron of one hundred tons or upwards, the building of which commenced after the twenty-eighth day of August one thousand eight hundred and forty-six, and every steam ship built of iron of less burden than one hundred tons, the building of which commenced after the seventh day of August one thousand eight hundred and fifty-one (except ships used solely as steam tugs), shall be divided by substantial transverse water-tight partitions, and so that the after part of such ship shall be separated from the engine rooms by another of such partitions:*

(2) *Every steam ship built of iron, the building of which commences after the passing of this Act, shall be divided by such partitions as aforesaid into not less than three equal parts, or as nearly so as circumstances permit;*

[1] See ss. 299j, 299k, 299l.

[2] As to power of Local Government to make bye-laws regulating use of fire and lights on Madras pier, see Mad. Act V of 1863, s. 14.

Hull and Equipment of Steam ships.

(3) *In such last-mentioned ships, each such partition as aforesaid shall be of equal strength with the side plates of the ship with which it is in contact:*

(4) *Every screw steam ship, built of iron, the building of which commences after the passing of this Act, shall, in addition to the above partitions, be fitted with a small water-tight compartment including the after extremity of the shaft:*

Officers of Customs not to grant clearance unless so divided.

And no officer of Customs or other person shall grant a clearance or transire for any iron steam ship required to be divided or fitted as aforesaid unless the same is so divided and fitted, and if any such ship attempts to ply or go to sea without such clearance or transire, any such officer may detain her until she is so divided and fitted, and if any steam ship hereinbefore required to be so divided or fitted plies or goes to sea without being so divided or fitted, the owner shall incur a penalty not exceeding one hundred pounds.—[Repealed by Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 2.]

Equipment of steam ships. Safety valve.

301. Steam ships shall be provided as follows (that is to say)—

(1) Every steam ship of which a survey is hereby required shall be provided with a safety valve upon each boiler, so constructed as to be out of the control of the engineer when the steam is up, and if such valve is in addition to the ordinary valve, it shall be so constructed as to have an area not less and a pressure not greater than the area of and pressure on that valve:

Compasses to be adjusted.

(2) Every sea-going steam ship employed to carry passengers shall have her compasses properly adjusted from time to time; such adjustment, in the case of ships surveyed as hereinafter mentioned, to be made to the satisfaction of the shipwright surveyor, and according to such regulations as may be issued by the Board of Trade:

Fire hose.

(3) Every sea-going steam ship (unless used solely as a steam tug) shall be provided with a hose adapted for the purpose of extinguishing fire in any part of the ship, and capable of being connected with the engines of the ship:

Signals.

(4) *Every sea-going steam ship employed to carry passenger shall be provided with making the following signal of distress, that is to say, twelve blue lights or twelve port fires, and one cannon with an ammunition for at least twelve charges, or in the discretion of the master or owner of such ship, with such other means of making signals (if any) as may have previously been approved by the Board of Trade.*—[Repealed by Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 45.]

Shelter for deck passengers.

(5) Every home-trade steam ship employed to carry passengers by sea shall be provided with such shelter for the protection of deck passengers (if any) as the Board of Trade, having regard to the nature of the passage, the number of deck passengers to be carried, the season of the year, the safety of the ship, and the circumstances of the case, may require:

And if any steam ship as aforesaid plies or goes to sea from any port in the United Kingdom without being so provided as hereinbefore required, then for each default in any of the above requisites the owner shall (if he appears to be in fault) incur a penalty not exceeding one hundred pounds, and the master shall (if he appears to be in fault) incur a penalty not exceeding fifty pounds.

Build and Equipment of Steam Ships.

301a. Every sea-going passenger steamer and every emigrant ship shall be provided to the satisfaction of the Board of Trade—

Provision for signals of distress, inextinguishable life-buoys, and life-lines to passenger steamers and emigrant ships.

(1) with means for making the signals of distress at night specified in the first schedule to "The Merchant Shipping Act, 1873," or in any rules substituted therefor, including means of making flames on the ship which are inextinguishable in water, or such other means of making signals of distress as the Board of Trade may previously approve; and

(2) with a proper supply of lights inextinguishable in water and fitted for attachment to life-buoys.

If any such steamer or ship goes to sea from any port of the United Kingdom without being so provided as required by the section, for each default in any of the above requirements, the owner shall if he appear to be in fault incur a penalty not exceeding one hundred pounds, and the master shall, if he appear in fault with a penalty not exceeding fifty pounds.

SCHEDULE I.

The following signals, Nos. 1, 2, and 3, when used or displayed together or separately, shall be deemed to be the signals of distress:—

In the day time—

(1) A gun fired at intervals of about a minute.

(2) The international code signals or distress indicated by N. C.

(3) The distant signals consisting of a square flag having either above or below it a ball or anything resembling a ball.

At night—

(1) A gun fired at intervals of about a minute;

(2) Flames on the ship (as from a burning tar barrel, oil barrel, &c.);

(3) Rockets or shells, of any colour or description, fired one at a time, at short intervals.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 21.]

Penalty for improper weight on safety valve.

302. If any person places an undue weight on the safety valve of any steam ship, or, in the case of steam ships surveyed as hereinafter mentioned increases such weight beyond the limits fixed by such engineer surveyor as hereinafter mentioned, he shall, in addition to any other liabilities he may incur by so doing, incur a penalty not exceeding one hundred pounds.

Deck and Load Lines.

Deck and Load Lines.

Marking of deck lines.

302a. Every British ship (except ships under eighty tons register employed solely in the coasting trade, ships employed solely in fishing, and pleasure

Deck-load Load Lines.

yachts) shall be permanently and conspicuously marked with lines of not less than twelve inches in length and one inch in breadth, painted longitudinally on each side amidships, or as near thereto as is practicable, and indicating the position of each deck which is above water.

The upper edge of each of these lines shall be level with the upper side of the deck plank next the waterway at the place of marking.

The lines shall be white or yellow on a dark ground, or black on a light ground.—[Merchant Shipping Act, 1876,[1] 39 & 40 Vic., c. 80, s. 25.]

Marking of load-lines on foreign-going British ships.

302*b*. With respect to the marking of a load-line on British ships the following provisions shall have effect:—

(1) The owner of every British ship (except ships under eighty tons register employed solely in the coasting trade, ships employed solely in fishing, and pleasure yachts) shall, before entering his ship outwards from any port in the United Kingdom upon any voyage for which he is required so to enter her, or, if that is not practicable, as soon after as may be, mark upon each of her sides amidships, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre:

(2) The centre of this disc shall indicate the maximum load-line in salt water to which the owner intends to load the ship for that voyage:

(3) He shall also, upon so entering her, insert in the form of entry delivered to the collector or other principal officer of Customs a statement in writing of the distance in feet and inches between the centre of this disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre:

(4) If default is made in delivering this statement in the case of any ship, any officer of Customs may refuse to enter the ship outwards:

(5) The master of the ship shall enter a copy of this statement in the agreement with the crew before it is signed by any member of the crew, and no superintendent of any mercantile marine office shall proceed with the engagement of the crew until this entry is made:

(6) The master of the ship shall also enter a copy of this statement in the official log book:

(7) When a ship has been marked as by this section required, she shall be kept so marked until her next return to a port of discharge in the United Kingdom.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 26.]

[1] Nothing in 39 & 40 Vic., c. 80 applies to any vessel employed exclusively in trading or going from place to place in any river or inland water of which the whole or part is in any British possession, and provisions of the Act relating to deck cargo do not apply to deck cargo on a ship in the coasting trade of any British possession.

Deck and load-lines.

Marking of deck-lines.

302*c*. Every British Indian ship shall be permanently and conspicuously marked with lines of not less than twelve inches in length and one inch in breadth painted longitudinally on each side amidships or as near thereto as is practicable, and indicating the position of each deck which is above water.

The upper edge of each of these lines shall be level with the upper side of the deck-plank next the water-way at the place of marking. The lines shall be white or yellow on a dark ground, or black on a light ground.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 33.]

Marking of load-line.

302*d*. The master of every British ship not being a coasting-vessel within the meaning of the Sea Customs Act, 1878, shall, before his ship is entered outwards from any port in British India upon any voyage, or if that is not practicable, as soon after as may be, mark outside upon each of her sides amidship, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

The centre of such disc shall indicate the maximum load-line in salt-water to which it is intended to load such ship for that voyage.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 34.]

Statement in application to Customs-collector for entry outwards.

302*e*. The person applying for entry of any such ship outwards shall insert, in the form of application made to the customs collector, a statement in writing of the distances in feet and inches between the centre of such disc and the upper edge of each of the lines indicating the position of the ship's deck which is above such centre; and if default is made in delivering this statement, the customs collector may refuse to enter the ship outwards.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 35.]

Copy of statement to be entered in agreement with the crew and in the log-book.

302*f*. A copy of this statement shall be entered in the agreement with the crew before it is signed by any member of the crew; and no shipping masters shall proceed with the engagement of the crew till this entry is made.

The master shall enter a copy of this statement in the official log book (if any).—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 36.]

Ship to be kept marked.

302*g*. When a ship has been marked as by section thirty-four required, she shall be kept so marked until she next returns to a port of discharge in British India or arrives at a port in the United Kingdom.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 37.]

Penalty for neglecting to mark, or submerging load-line.

302*h*. Any master of a ship who neglects to cause his ship to be marked as by this chapter [1] required, or to keep her so marked, or who allows the ship to be so loaded that when in perfectly smooth salt-water the centre of

[1] Chapter II (ss. 33—43), 302*a*, 302*b*, 302*c*, 302*d*, 302*e*, 302*f*, 302*g*, 302*h*, 302*i*, 302*j*, 547 (*le*), 547 (*lf*), 547 (*lg*).

Dict. Act X, 1882.

the disc is submerged, and any person who conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate, any of the said marks, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy, shall be punished for each such offence with fine which may extend to one thousand rupees.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 41.]

Penalty on master for leaving unlicensed mark.

302*h*. If any of the marks required by this chapter[1] is in any respects inaccurate so as to be likely to mislead, the master of the ship shall be punished with fine which may extend to one thousand rupees.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 42.]

Saving of ships marked in the United Kingdom.

302*j*. The provisions of this chapter[1] as to load-lines shall not apply to ships coming from ports in the United Kingdom and marked with such lines in accordance with the provisions of the laws for the time being there in force.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 43.]

Delegation of powers to Port Commissioners, &c.

302*k*. The Local Government may, from time to time, by notification in the official Gazette, delegate, either absolutely or subject to such conditions or restrictions as it thinks fit, to any body of commissioners or trustees appointed for managing the affairs of a port all or any of the powers, and require the said body to discharge all or any of the functions, of a Local Government under the foregoing sections[2] of this Act, except the powers conferred by section fourteen, the power of preparing a list of assessors under section fifteen and the power of making rules, and may cancel any such notification.

While any such notification remains in force, all costs and damages which would otherwise be recoverable under this Act by or from the Government shall be recoverable in like manner by or from such body; and such body shall, notwithstanding anything to the contrary contained in any enactment now in force, credit or pay, as the case may be, the amount of any costs or damages so recovered to or from the funds held by them in trust as such body.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 53.]

Equipment of Vessels in Port.

Equipment of Vessels in Port.

Vessels above 200 tons to be provided with force-pumps, &c.

302*l*. Every vessel exceeding the burden of two hundred tons and lying in any such port shall be provided with a proper force-pump, hose and appurtenances, for the purpose of extinguishing any fire that may occur on board.

The master of every such vessel who, having been required by the conservator to comply with the provisions of this section, without lawful excuse,

[1] Chapter II (ss. 33—43), 302*c*, 302*d*, 302*e*, 302*f*, 302*g*, 302*h*, 302*i*, 302*j*, 547 (1*e*), 547 (1*f*), 547 (1*g*).

[2] See note to p. 491.

neglects or refuses so to do for the space of seven days after such requisition, shall be punished with fine which may extend to five hundred rupees.—[Indian Ports Act, 1875—Act XII of 1875, s. 39.]

Equipment of Vessels in Port.

302*m*. If any vessel of more than ten tons' burden shall, without such license as hereinafter is mentioned, be afloat in any port within the provinces under the control of the Lieutenant-Governor of Bengal, without having on board thereof a crew of not less than the number set forth in the first schedule hereto, the master of such vessel, and, in case there shall be no master of such vessel, then the owner thereof, shall be punished with a fine not exceeding five hundred rupees.

Penalty for not having sufficient crew on vessels lying in port.

First Schedule.

	If Natives.	If Europeans.	Officers in charge.
Cargo boats	4	4	...
Vessels not being cargo boats of 600 tons and under in moorings	6	4	1
For every additional 100 tons	1½	1	...
Vessels not being cargo boats of 600 tons and under in stream	11	7½	1
For every additional 100 tons	2	1	...

[Ships in Port—Ben: Act III of 1867,[1] s. 2.]

302*n*. Whenever it shall appear to the conservator of any port that any vessel in such port may, without danger to other vessels in such port, be afloat without such crew as hereinbefore is mentioned being maintained thereon, it shall be lawful to such conservator, if he shall think fit, to grant under his hand a license in the form A in the second schedule hereto, which license may be made determinable on the breach of any conditions therein contained; and during the continuance of such license, the provisions of section 2 of this Act shall not apply to such vessel.

Power to exempt from maintaining crew on particular ships.

FORM A.

Schedule II.

Port of ( )

I ( ) Conservator of the port of

do hereby license the (*ship*) of which is master, to remain at her present moorings, in the said port, without having on board the crew required by Act III of 1867 of the Lieutenant-Governor of Bengal in Council: Provided always that, on breach of any of the conditions hereunder written, this license shall forthwith absolutely cease and determine.

[Ships in Port—Ben: Act III of 1867, s. 3.]

302*o*. It shall be lawful for such conservator, by any writing under his hand in the form B in the second schedule hereto, to revoke such license; and from and after the publication of such revocation, by posting a copy thereof

Power to revoke exemption.

[1] This Act is to be construed together with Act XII of 1875.

Disposal of vessels in port.

upon some conspicuous part of such vessel, the provisions of section 2 [1] of this Act shall apply to such vessel and to the master and owner thereof, as if no such license had ever been granted.

FORM B.

Port of ( )

I ( ) conservator of the Port of

do hereby revoke all license to the (*ship*) to remain in port without a crew therein.

[Ships in Port—Ben: Act III of 1867, s. 4.]

Power to make order with respect to portions of port.

302*p*. Whenever it shall appear to the conservator of any port that any creek, river or dock is so situate that vessels without any crew therein may remain afloat in such creek, river or dock, without danger to any vessels in any part of such port, it shall be lawful for such conservator to make an order in the form C in the second schedule hereto, and from time to time, if he shall think fit, to revoke or amend such order:

Provided always that every such order, amendment and revocation shall be published in the *Calcutta Gazette*, and that no such order, amendment or revocation shall have any force or effect until it shall have been so published.

FORM C.

Port of ( )

I ( ) the conservator of the Port of

do hereby order that vessels lying in the following portion of the said port (*here set out the exempted limits*) shall be exempt from the provisions of the second section of Act III of 1867 passed by the Lieutenant-Governor of Bengal in Council.

[Ships in Port—Ben: Act III of 1867, s. 5.]

Application of section 2 to certain ships.

302*q*. During such time as any such order shall remain in force, the provisions of section 2 [1] of this Act shall not apply to any vessel lying or being within the limits of any such creek, river or dock, as the same shall be defined by such order.—[Ships in Port—Ben: Act III of 1867, s. 6.]

Recovery of penalties.

302*r*. All complaints as to offences against this Act shall be heard and determined by a magistrate within whose local jurisdiction the offence may be alleged to have been committed: and the provisions for the recovery of fines contained in sections 64, 65, 66, and 67 of Act XLV of 1860 [2] (*the Indian Penal Code*) and in section 307 of the Code of Criminal Procedure shall apply to all fines and penalties imposed under this Act by any magistrate in any port other than the port of Calcutta; and the provisions of Act IV of 1866 passed by the Lieutenant-Governor of Bengal in Council, and every other Act for regulating the Police of the town of Calcutta in force for the time

[1] See s. 302*m*.

[2] S. 64 relates to power of Courts to impose sentence of imprisonment in default of payment fine.

S. 65 relates to the limit of term of imprisonment for default in payment of fine when offence is punishable with imprisonment as well as fine.

S. 66 relates to the description of imprisonment for such default.

S. 67 relates to the term of imprisonment for default in payment of fine when the offence is punishable with fine only.

being, shall apply to all fines and penalties imposed under this Act by any magistrate of police for the town of Calcutta.—[Ships in Port—Ben: Act III of 1867, s. 17.] *Employment of Vessels in Port.*

302*s*. All penalties levied under this Act[1] shall be applied as fines received under the said Indian Ports Act, 1875, are directed to be applied.—[Ships in Port—Ben: Act III of 1867, s. 18.] Penalties how disposed of.

302*t*. This Act may be called "The Indian Arms Act, 1878;" and it extends to the whole of British India. Exemptions of arms on board ship from duty under Arms Act.

But nothing herein contained shall apply to—

(*a*) arms, ammunition or military stores on board any sea-going vessel and forming part of her ordinary armament or equipment, or

(*b*) the manufacture, conversion, sale, import, export, transport, bearing or possession of arms, ammunition or military stores by order of the Government, or by a public servant or a volunteer enrolled under the Indian Volunteers Act, 1869, in the course of his duty as such public servant or volunteer.—[Indian Arms Act, 1878—Act XI of 1878, s. 1.]

Survey of Passenger Steamers.

Survey of Passenger Steamers.

303. For the purpose of the enactments herein contained with respect to surveys and certificates of passenger steam-ships, the word "passengers" shall be held to include any persons carried in a steam-ship, other than the master and crew, and the owner, his family and servants; and the expression "passenger steamer" shall be held to include every British steam-ship carrying passengers to, from, or between any place or places in the United Kingdom, excepting steam ferry-boats working in chains, commonly called steam bridges. Definition of "passengers" and "passenger steamer."

304. *Every passenger steamer shall be surveyed twice at the least in each year in manner hereinafter mentioned.*—[Repealed by Merchant Shipping Act, 1872, 35 & 36 Vic., c. 73, *s*. 8.] Passenger steamers to be surveyed.

304*a*. The three hundred and fourth section of the Merchant Shipping Act, 1854, shall be repealed, and every passenger steamer shall be surveyed once at the least in every year in the manner mentioned in the fourth part of that Act. The fees to be charged for certificates issued in respect of such survey shall not exceed for a yearly certificate twice the sum named in the table marked T[2] in the schedule to the said Act as chargeable for a six months' certificate.—[Merchant Shipping Act, 1872, 35 & 36 Vic., c. 73, s. 8.] Passenger steamers to be surveyed once in every year according to 17 & 18 Vic., c. 104.

Steam-vessels liable to survey.

304*b*. All steam-vessels plying on any of the rivers or waters within the provinces subject to the Lieutenant-Governor of Bengal, except steam-vessels which may ply between some port within the said provinces, and some Steam-vessels to be surveyed.

[1] Ben: Act III of 1867 is to be construed and read together with, and as part of, the Indian Ports Act, 1875.

[2] See s. 314.

Survey of Passenger Steamers.

port not in British India, shall be liable to be surveyed twice in every year in the manner prescribed in the said (Act V of 1862)[1]—[Survey of Steamers.—Ben: Act V of 1862, s. 1.]

Certain steam-vessels liable to be surveyed twice a year.

304*c*. Every steam-vessel, plying in the harbour of Bombay, or in any of the ports or harbours, or on any of the rivers or waters of the Presidency of Bombay, and every British steam-vessel carrying passengers between any port of the Presidency of Bombay and any other ports, shall be liable to be surveyed twice in every year, in the manner hereinafter prescribed.

But no steam-vessel holding a certificate granted by the British Board of Trade or by any British Indian or British Colonial Government shall be liable to be so surveyed as long as such certificate remains in force and valid, unless such steam-vessel, or the machinery belonging to the same, shall, subsequently to the issue of such certificate, have sustained injury or damage, or been found unseaworthy or otherwise inefficient[2].—[Survey of Steamers—Bom: Act II of 1864, s. 1.]

Certain steam-vessels liable to be surveyed twice a year.

304*d*. Every steam-vessel, plying on any of the rivers or waters of British Burma, except steam-vessels plying between some port within the said Province and some port not in British India, shall be liable to be surveyed twice in every year, in the manner hereinafter prescribed.—[The Burmese Steamer Survey Act—Act XVI of 1871, s. 3.]

Ship Surveyors.

Board of Trade to appoint surveyors, and fix their remuneration.

305. The Board of Trade may, from time to time, appoint such number of fit and proper persons to be shipwright surveyors and engineer surveyors for the purposes of this Act at such ports or places as it thinks proper, and may also appoint a Surveyor General for the United Kingdom, and may from time to time remove such surveyors or any of them, and may from time to time fix and alter the rates of remuneration to be received by such surveyors.

Local Government to appoint examiners and to make rules as to qualification, &c., of ship surveyors.

305*a*. The Local Government may, from time to time, appoint competent persons for the purposes of examining the qualifications of persons desirous of practising the profession of a ship surveyor at any port in the territories administered by such Government, and, subject to the control of the Governor-General in Council, make rules—

(*a*) for the conduct of such examinations and the qualifications to be required,

(*b*) for the grant of certificates to qualified persons,

(*c*) for the fees to be paid for such examinations and certificates,

(*d*) for holding enquiries into charges of incompetency and misconduct on the part of holders of such certificates, and

(*e*) for the suspension and cancelment of such certificates.

[1] Bengal Act I of 1863, section 1.

[2] As amended by Bom: Act IV of 1873, s. 4.

All such rules shall be published in the official Gazette, and shall thereupon have the force of law.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 68.] *Survey of Passenger Steamers.* Publication of rules.

305*b*. No person shall, in any port in which there is a person exercising the profession of a ship-surveyor and holding a certificate granted under section sixty-eight, exercise such profession in such port unless he holds a certificate granted under that section: No person to practise as ship surveyor unless qualified.

Provided that nothing herein contained shall prevent any person employed by Lloyd's Register of British and Foreign Shipping or Bureau Veritas from discharging any of the duties of such employment, or apply to any person specially exempted by the Local Government from the operation of this section.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 69.] Surveyors of Lloyd's and Veritas.

305*c*. Any person exercising the profession of a ship surveyor in contravention of the provisions of section sixty-nine shall be punished with fine not exceeding one thousand rupees, and shall be incapable of maintaining any suit for any fee or reward for anything done by him in such exercise of such profession.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 70.] Penalty for practising as ship surveyor without certificate.

305*d*. It shall be lawful for the Lieutenant-Governor of Bengal to appoint a fit and proper person, or fit and proper persons, to be a surveyor or surveyors for the purposes of this Act.—[Survey of Steamers—Ben: Act V of 1862, s. 2.] Government to appoint one or more surveyors.

305*e*. It shall be lawful for the Governor of Bombay in Council to appoint a fit and proper person or persons to be a surveyor or surveyors for the purposes of this Act.—[Survey of Steamers—Bom: Act II of 1864, s. 2.] Government to appoint one or more surveyors.

305*f*. The Chief Commissioner may appoint, for the purposes of this Act, any ports in British Burma to be ports of survey, and fit and proper persons to be surveyors.—[The Burmese Steamer Survey Act—Act XVI of 1871, s. 4.] Government to appoint surveyors.

305*g*. The Governor of any British possession abroad may, from time to time, appoint fit and proper persons to be surveyors, who shall have and exercise within such possessions all the powers with respect to the inspection of crew spaces that are conferred upon the Board of Trade surveyors in the United Kingdom by section 9[1] of the Merchant Shipping Act, 1867.—[The Colonial Shipping Act, 1868, 31 & 32 Vic., c. 129, s. 3.] Governor abroad may appoint surveyors.

305*h*. It shall be lawful for the Lieutenant-Governor, by an order to be published in the *Calcutta Gazette*, to appoint any ports or places, in the Provinces subject to his Government, to be ports of survey for the purposes of the said Act V of 1862, and of this Act.—[Steam-boat Survey Amendment Act, 1868—Ben: Act I of 1868, s. 2.] Power to appoint ports of survey.

305*i*. It shall be lawful for the Governor of Bombay, by an order to be published in the Government Gazette, to appoint any ports or places in the Presidency of Bombay to be ports of survey for the purposes of the said Act Power to appoint ports of survey.

[1] Section 9 is repealed.

Survey of Passenger Steamers.

II of 1864, and of this Act.—[Steam-vessels Survey Amendment Act—Bom: Act IV of 1873, s. 12.]

Surveyors to have power to inspect.

306. It shall be lawful for the said surveyors, in the execution of their duties, to go on board any steam-ship at all reasonable times, and to inspect the same or any part thereof, or any of the machinery, boats, equipments, or articles on board thereof, or any certificates of the master or mate to which the provisions of this Act or any of the regulations to be made by virtue thereof apply, not unnecessarily detaining or delaying the ship from proceeding on any voyage, and if in consequence of any accident to any such ship, or for any other reason, they consider it necessary so to do, to require the ship to be taken into dock for the purpose of surveying the hull thereof; and any person who hinders any such surveyor from going on board any such steam-ship, or otherwise impedes him in the execution of his duty under this Act, shall incur a penalty not exceeding five pounds.

Duties of surveyors.

306a. All duties in relation to the survey and measurement of ships under this Act or the Acts amended hereby shall be performed by the surveyors appointed under the fourth part of the Merchant Shipping Act, 1854, in accordance with such regulations as may be from time to time made by the Board of Trade.—[Merchant Shipping Act, 1872, 35 & 36 Vic., c. 73, s. 18.]

Authority to surveyors to board steamers for purpose of surveying.

306b. It shall be lawful for the said surveyors, in the execution of their duties, to go on board any steam-vessel liable to be surveyed under this Act, as soon as reasonably may be after the arrival of such steam-vessel in the port of Calcutta (or any other port of survey),[1] and not so as unnecessarily to hinder the loading or unloading of such steam-vessel, or to detain or delay her from proceeding on any voyage or service, and to inspect such steam-vessel or any part thereof, and any of the machinery, equipments or articles on board thereof: and the owner, master, and officers serving on board of such vessel shall be bound to afford to the surveyors all reasonable facility for such inspection or survey, and to afford them all such information respecting such vessel and her machinery and equipments, or any part thereof respectively, as may be reasonably required by the surveyors; and any person who shall refuse access to the surveyors, or shall otherwise hinder them in the performance of their duty, or shall refuse or neglect to give any information which any reasonably be required of them, and which they have it in their power to give, shall be liable for each offence to a penalty of five hundred rupees, or to one month's imprisonment. [Survey of Steamers—Bom: Act V of 1862, s. 3.]

Penalty for hindering surveyor, or withholding information.

Authority to surveyors to board steamers for purpose of surveying.

306c. It shall be lawful for the said surveyors, in the execution of their duties, to go on board any steam-vessel liable to be surveyed under this Act, as soon as reasonably may be after the arrival of such steam-vessel in any of the ports, harbours, rivers or waters of the Presidency of Bombay, but not so as unnecessarily to hinder the loading or unloading of such steam-vessel, or to detain or delay her from proceeding on any voyage or service, and to in-

[1] Ben: Act I of 1863, s. 3.

spect such steam-vessel or any part thereof, and any of the machinery, boats, or equipments on board thereof:

Survey of Passenger Steamers.

and the owner, master, and officers serving on board of such vessel shall be bound to afford to the surveyors all reasonable facility for such inspection or survey, and to afford them all such information respecting such vessel and her machinery, boats, and equipments, or any part thereof respectively, as may be reasonably required by the surveyors:

Penalty for hindering them in making survey or withholding information.

and any person who shall refuse access to the surveyors, or shall otherwise hinder them in the performance of their duty, or shall refuse or neglect to give any information which may reasonably be required of them, and which they have it in their power to give, shall be deemed guilty of contempt of lawful authority, and punishable under section 176 or 186[1] of the Indian Penal Code, whichever may be applicable to the case.—[Survey of Steamers—Bom. Act II of 1864, s. 3.]

Surveyors to board steamers for purpose of surveying.

306*A*. The said surveyors in the execution of their duties may go on board any steam-vessel liable to be surveyed under this Act, as soon as reasonably may be after the arrival of such steam-vessel in the port of Rangoon or any other port of survey, and not so as unnecessarily to hinder the loading or unloading of such steam vessel, or to detain or delay her from proceeding on any voyage or service, and may inspect such steam-vessel or any part thereof, and any of the machinery, equipments, or articles on board thereof.

The owner, master, and officers serving on board such vessel shall be bound to afford to the surveyors all reasonable facilities for such inspection or survey, and to afford them all such information respecting such vessel and her machinery and equipments, or any part thereof respectively, as they may reasonably require.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 5.]

Hindering survey or withholding required information.

306*B*. Any person refusing access to any surveyors or other persons under this Act, or otherwise hindering them in the performance of their duty, or refusing or neglecting to give any information which may reasonably be required of him, and which he has in his power to give, shall be liable for each offence to fine not exceeding five hundred rupees, or to imprisonment for a term not exceeding one month.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 26.]

Duty of surveyor on board the steam-vessel.

306*C*. It shall be the duty of any surveyor appointed for the purposes of the said Act II of 1864, on going on board of any steam-vessel arriving in any port or harbour of the Presidency of Bombay, to enquire of the master thereof if there are any passengers on board of such vessel, or if such vessel is intended to carry passengers, or if any certificate has been granted by the British Board of Trade or by any British-Indian or British Colonial Government for the same, and in such case to demand the production of the said certificate for his inspection.

And it shall further be the duty of such surveyor to enquire of the master and other officers and the engineers of such steam-vessel whether any injury

[1] S. 176 relates to omission to give notice or information to a public servant, by a person legally bound to do so.

S. 186 relates to obstructing a public in discharge of public functions.

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or damage has been sustained by the said steam-vessel or the machinery of the same, since the date of the issue of such certificate.

Penalty for refusal to answer questions.

And if any such master, officer, or engineer shall refuse to answer any question herein directed to be put to him or shall not truly answer the same, he shall be liable to a penalty not exceeding five hundred rupees.—[Steam-vessel Survey Amendment Act—Bom: Act IV of 1873, s. 5.]

Certificate of exemption from survey to be delivered by surveyor.

306*g*. Every such surveyor shall, after satisfying himself that no passenger has arrived by such steam-vessel, and that such steam-vessel is not intended to carry passengers, or that such steam-vessel is entitled, under the provisions of section 4 of this Act, to be exempted from survey, deliver to the master of such steam-vessel a certificate under his hand, that such steam-vessel is not intended to carry passengers or is otherwise exempted from survey under section 4 of this Act[1] as the case may be, and upon the production of such certificate the proper officer of Customs shall grant a clearance, and the proper authority shall assign a pilot to such steam-vessel, anything in the said Act II of 1864 to the contrary notwithstanding.—[The Steam-vessel Survey Amendment Act—Bom: Act IV of 1873, s. 6.]

Penalty for receiving passengers on vessel not intended to carry them.

306*h*. If after the issue of a certificate under the preceding section that any steam-vessel is not intended to carry passengers, and during the continuance in force of such certificate any passenger shall be taken on board of such steam-vessel, the master thereof shall be liable to a penalty not exceeding five hundred rupees.—[The Steam-vessel Survey Amendment Act—Bom: Act IV of 1873, s. 7.]

Power to order special survey of British steamer in survey port.

306*i*. It shall be lawful for the Lieutenant-Governor of Bengal to give special directions to the surveyors under this Act for the survey by them of any British steamer lying in the port of Calcutta or any other port of survey, and plying between Calcutta or any other port of survey, and any port or ports whatever, and the provisions of this Act shall apply (so far as the same are in any way applicable) to every vessel so specially directed to be surveyed, and the owner, master, and officers thereof.—[Survey of Steamers—Ben: Act V of 1862, s. 7.]

Power to order special survey of British steamer in harbour of Bombay.

306*j*. It shall be lawful for the Governor of Bombay in Council to give special directions to the surveyors under this Act to survey any British steamer lying in any of the ports, harbours, rivers or waters of the Presidency of Bombay, and the provisions of this Act shall apply (so far as the same are in any way applicable) to every vessel so specially directed to be surveyed, and to the owner, master, officers, and crew thereof.—[Survey of Steamers—Bom: Act II of 1864, s. 7.]

Special survey may be ordered by Government on any British steamer.

306*k*. The Chief Commissioner may give special direction to the surveyors under this Act for the survey by them of any British steamer lying in any port of survey and plying between such port and any other port or ports, and the provisions of this Act shall apply (so far as the same are applicable) to

[1] See s. 304*c*.

every vessel so specially directed to be surveyed, and the owner, master, and officers thereof.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 8.]

Survey of steamers.

307. The said surveyors shall execute their duties under the direction of the Board of Trade, and such Board shall make regulations as to the manner in which the surveys hereinafter mentioned shall be made, and as to the notice to be given to the surveyors when surveys are required, and as to the amount and payment of any travelling or other expenses incurred by such surveyors in the execution of their duties, and may thereby determine the persons by whom and the conditions under which such payment shall be made.

Board of Trade may make regulations as to manner of making surveys.

307*a*. The Lieutenant-Governor of Bengal is hereby empowered to frame rules as to the manner in which the surveys shall be made and the times and place of such surveys, and the duties of the surveyors:

Provided that such rules shall not be inconsistent with the provisions of this Act.—[Survey of steamers—Ben. Act V of 1862, s. 8.]

Government may make rules as to manner and time of making the survey.

INSTRUCTIONS TO SURVEYORS OF STEAM VESSELS, IN COMPLIANCE WITH SECTION 8 OF ACT V OF 1882, PASSED BY THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Preliminary.

1. The present revised instructions relate to the duties to be performed by engineer and ship weight surveyors under Act V of 1882.

2. The instructions are numbered for facility of reference.

INSTRUCTIONS TO ENGINEER AND SHIPWEIGHT SURVEYORS-GENERAL.

1. Surveys are, when practicable, to be made in the months of January and July, so that the declarations may be transmitted to the Master-Attendant on or before the last day of January and the last day of July, respectively.

2. But if, when the survey ought to be made, the vessel is absent from the port, or is not in a proper condition for a survey, either from being under construction or repair, or for any other sufficient reason, then the survey is to be made as soon afterwards as possible, and the declaration is to be transmitted with a statement endorsed therein by the surveyor of the reasons which have prevented the survey being held at the time prescribed.

3. Each surveyor is to be careful that the owners of the steam vessels requiring survey are informed that they are to give him at least three days' notice in writing when a survey is required; and that, should such notice fail to be given, he (the surveyor) is not responsible for any delay or inconvenience which may occur in consequence.

4. This notice (which is to be preserved by the surveyor) must state explicitly the name of the steamer to be surveyed, and the time when, and place at which, she will be ready for inspection.

5. In order to prevent inconvenience and delay to the owners, the surveyors are to be careful to be in attendance at the appointed time and place. Should they be unable to attend as required, notice should be given to the owners to that effect.

6. Should a steamer not be ready for inspection at the time arranged, the surveyors may make such arrangement for the subsequent survey as may be convenient to the owner or his agent. All expenses arising out of this postponement will be charged on the owner when the certificate is issued.

7. If, in consequence of any accident to the steam-ship, or for any other reason, the surveyor considers it necessary to require the vessel to be taken into dock, for the purpose of surveying the hull thereof, he may do so, but he is to be careful to exercise this power only when the circumstances of the case actually require it.

8. Surveyors may go on board any steam-ship at all reasonable times for the purpose of inspection of the vessel, the machinery, the boats or other equipments rendered necessary by the Act,

Survey of Pad. Power Steamers.

and the owners, masters, and engineers of steam-ships are required by the Act to give to the surveyors, on being requested so to do, all such information and assistance within their power as may be requisite for the purpose of making the returns. In the performance of this part of their duty the surveyors are to be careful to avoid impeding the duty of the vessel or giving offence to any of the officers; but should they be hindered or vexatiously obstructed by any person in the performance of their duties, they are to communicate the same without delay to the Master-Attendant.

9. The surveyors are to make their inspections together, and should do so when the agent, master or chief mate, and engineer of the vessel are present. Repairs can then be ordered, and defects can be pointed out to the proper persons without incurring the uncertainty and delay attendant upon messages delivered to subordinate officers. In the case of iron-vessels, the engineer-surveyor should accompany the shipwright in his examination of such parts of the hull and partitions as are in any manner connected with the machinery, or through which any pipe, valve or shaft connected with the engines may pass. Whenever a shipwright-surveyor intends to inspect a vessel in dock, or on the ground, he should be very careful to notify his intention to the engineer-surveyor, in order that the engineer may also examine the outside part connected with the machinery without the necessity of ordering the vessel to be re-docked.

10. It is a part of the surveyors' duty to report all cases of infringement of this Act which come to their notice, and in reporting them they should take care to state what the evidence is on which their report is founded.

Declarations and certificates.

11. Surveyors are in no case to give a declaration either for the hull or machinery of a steamer, unless they are satisfied that all the requirements of the Act have been complied with.

12. Certificates are not to remain in force, under any circumstances, beyond the period of six months.

13. But in any case in which either of the surveyors has reason to believe that the hull or machinery is not fit for so long a time as above mentioned, he is to grant his declaration for such shorter period as he may deem expedient, informing the owners at the time of his reasons for so doing in such cases; and also in cases in which a joint declaration is refused, he is to give, if required, a statement in writing of the repairs he considers necessary to enable him to grant a declaration of the usual time, provided that no certificate shall be granted for a shorter period than three months.

14. The surveyors shall in all cases specify in the column of Remarks of the certificate the number and capacity of the boats carried by the vessel.

15. The surveyors are to keep an account of the persons to whom, and the dates on which, their declarations are given.

16. Every person who knowingly and wilfully makes, or assists in making, or procures to be made, a false or fraudulent declaration or certificate with respect to any steamer requiring a certificate, or who forges, assists in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any declaration or certificate or any words or figures in any such declaration or certificate, or any signature thereto, is guilty of misdemeanor.

17. The Act requires that the certificate shall be put up in a conspicuous place where it will be visible to all persons on board under a penalty not exceeding Rs. 100 for each offence, and the surveyors are to inform the Master-Attendant of any case of non-compliance with this enactment which may come to their knowledge.

Accident and Damages.

18. In all cases in which a steam-ship has sustained damage from any accident or other cause affecting her seaworthiness or efficiency in any part of her hull, equipments, or machinery, the surveyors are to go on board and ascertain the extent of damages. In doing so they will take care not to make any change in the position or condition of things on board which would be at all likely to affect any legal evidence, should an enquiry into the case afterwards be considered necessary.

19. They are forthwith to send a report to the Master-Attendant, in order that the certificate may be cancelled if necessary. In this report they are to state whether the vessel is rendered inefficient or unseaworthy, either in hull or machinery, and whether, in their opinion, the certificate should be cancelled, or only temporarily withdrawn. *Survey of Passenger Steamers.*

20. Unless directions to the contrary are given by the Master-Attendant, the surveyor is to hold the certificate of the vessel during the time the vessel is under repair, and for this purpose he is to require it of the master.

21. Should the master or owner decline to give up the certificate, the surveyor is to send information immediately to the Master-Attendant, so that, if necessary, it may be cancelled.

22. When the vessel is in every respect rendered seaworthy and efficient, both in hull and machinery, to the entire satisfaction of the surveyor, he is to put an endorsement on the certificate to the effect that the damage has been made good so as to last either for the period for which the certificate was granted, or for any limited period for which he may consider it perfectly safe for the vessel to run, and allow the vessel to proceed. He is then to send to the Master-Attendant a statement of the extent of the repair that was necessary, and a copy of the endorsement made on the certificate.

23. In all cases in which a surveyor is directed by the Master-Attendant to obtain from an owner or master a certificate that has expired, or has been cancelled or revoked, he is to apply for it without delay; and, in the event of his application not being attended to, he is at once to report the case.

24. All books, forms and papers required for carrying the Act into effect will be forwarded from time to time by the Master-Attendant.

Instructions to Engineer-Surveyors.

Boilers and Machinery.

25. The machinery to be surveyed comprises the engines and the boilers used for propelling the vessel, and all the machinery connected therewith. The boilers of donkey-engines are to be surveyed with the boilers and machinery of the vessel when they are in any way connected with them; but boilers and machinery used for loading and unloading the vessel, or used exclusively for purposes unconnected with the motive power of the vessel, do not form a part of the machinery required to be surveyed by this Act.

26. In the examination of the machinery and boilers, the engineer-surveyor will be particularly careful; he must in no case give a declaration without thoroughly satisfying himself that both the boilers and the rest of the machinery are sufficient for the service intended and in good condition.

27. The engineer-surveyor, in his examination of the machinery and boilers, is particularly to direct his attention to the safety-valves, and whenever he considers it necessary, is to satisfy himself as to the pressure upon the boiler by actual trial.

Safety-valves.

28. Each boiler must be fitted with a safty-valve, constructed so that it shall be entirely out of the control of the engineer when the steam is up, and so that he may not have the power of increasing the pressure upon it in any manner whilst the vessel is under steam.

29. The responsibility of seeing to the efficiency of the mode in which this is done rests with the surveyor, but either of the following modes appears to the Master-Attendant to be satisfactory:—

1st.—The valves may either be contained wholly within the boiler and accessible through the manhole only; or

2nd.—It may be on the outside of the boiler, closed in a box sufficiently large only for the weights and the necessary motion for them, and secured by a lock, of which the key is to be kept by the master of the vessel, who will be responsible should any additional weight or pressure be placed on the valve.

Safety-valve.

30. No boiler or steam-chamber is to be so constructed, fitted or arranged, as that the escape of the steam from it through the safety-valve can be wholly or partially intercepted by the action of any other valve.

31. The Government safety-valve is in all cases to be of at least the same area as the ordinary safety-valve upon the same boiler, and to bear an equal or less pressure, but not in any case a greater.

32. It is extremely desirable that the safety-valve before-mentioned should be in addition to the ordinary valve, and the surveyor should point out this to the owners of vessels; but as it is not expressly enjoined by the Act, they are not to refuse a declaration on account of the recommendation not being complied with.

33. The engineer-surveyor is to fix the limits of the weight to be placed on the safety-valves, and in doing so he must be particularly careful.

34. When he has determined the amount of the pressure, he is to see the valve weighted accordingly, and the weights fixed in such a manner as to preclude the possibility of their shifting.

35. The limits of the weight on the valves will have to be inserted in the declaration, and should it at any time come to the knowledge of a surveyor that the weights have been shifted or otherwise altered, or that the valve has in any way been interfered with, he is at once to report to the Master-Attendant.

36. Surveyors are to call the attention of persons connected with the machinery of vessels to the fact that, if any person places an undue weight upon the safety-valve of any steam-ship, or increases such weight beyond the limits fixed by the surveyor, he is, in addition to other liabilities, subject to a penalty of Rs. 100 for every offence.

Instructions to Shipwright-surveyors.

Hull of the Ship.

37. The surveyor is to determine whether the hull of a vessel is in good condition and fit for the service for which she is intended, and he is to examine the bottom of the vessel outside once at least in every year at such a time as is most convenient to the owner.

Boats.

38. It will be the duty of the shipwright-surveyor to take care that all steam-ships are provided with boats according to their tonnage, both as to number and cubic contents, and to be very particular in seeing that they are efficient and in a good order and ready for service.

39. These boats must be duly supplied with all requisites for use, and the surveyors are to see that those requisites are in thorough repair, and that they, together with the boats themselves, are always in such a position as to be available without delay in case of danger. The plugs and thole-pins are always to be attached to the boats by lanyards. Amongst the requisites for use there must be included efficient means for lowering the boats into the water safely and expeditiously; and surveyors are to refuse declarations in cases in which the boats are in such a position as not to be ready for use in an emergency, or in which efficient means are not provided for lowering them.

40. It is to be left to ship-owners themselves to provide such methods as they please for lowering the boats, so long as the intention of the legislature is, in the surveyor's judgment, complied with.

Life-buoys.

41. Life-buoys should in all cases be carefully examined by the surveyor, in order to satisfy himself of their buoyancy, to see that the material of which they are composed has not become sodden, and that the lines attached to them are sufficient.

42. The steam-whistle in use as a fog-signal should be surveyed by the engineer-surveyor as well as by the shipwright, and care should be taken that both it and the fog-horn and bell are in a serviceable condition.

307*b*. The Governor of Bombay in Council is hereby empowered to frame rules as to the manner in which the surveys shall be made, and the times and places of such surveys, and the duties of the surveyors, provided that such rules shall not be inconsistent with the provisions of this Act.—[Survey of Steamers—Bom: Act II of 1864, s. 8.]

Survey of Steamers.

Power to make rules as to the time of the surveys.

307*c*. The Chief Commissioner may frame rules consistent with this Act as to—

Power to make rules as to the manner and time of the surveys.

(*a*) the manner in which the surveys shall be made;
(*b*) the times and places of such surveys; and
(*c*) the duties of the surveyors.

[Burmese Steamer Survey Act—Act XVI of 1871, s. 9.]

308. Every surveyor who demands or receives directly or indirectly from the owner or master of any ship surveyed by him under the provisions of this Act any fee or remuneration whatsoever for or in respect of such survey otherwise than as the officer and by the direction of the Board of Trade shall incur a penalty not exceeding fifty pounds.

Penalty on surveyor receiving fees indirectly.

308*a*. Any surveyor demanding or receiving directly or indirectly from the owner, master, or officer of any ship surveyed by him under the provisions of this Act any fee or remuneration otherwise than as provided by this Act shall be liable to dismissal, in addition to any other penalty to which he may by law be liable.—[Survey of Steamers—Bom: Act V of 1862, s. 9.]

Penalty for surveyor receiving remuneration otherwise than as provided by Act.

308*b*. Any surveyor demanding or receiving directly or indirectly from the owner, master, or officer of any vessel surveyed by him under the provisions of this Act any fee or remuneration otherwise than as provided by this Act shall be liable to dismissal, in addition to any other penalty to which he may by law be liable.—[Survey of Steamers—Bom: Act II of 1864, s. 9.]

Penalty for surveyor receiving remuneration otherwise than as provided by Act.

308*c*. Any surveyor demanding or receiving directly or indirectly from the owner, master, or officer of any ship surveyed by him under the provisions of this Act any fee or remuneration otherwise than as provided by this Act shall be liable to dismissal, in addition to any other penalty to which he may by law be liable.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 29.]

Receiving more than lawful fees for making surveys.

308*d*. If any surveyor, or any person employed under the authority of the Passengers Act, 1855, demands or receives directly or indirectly otherwise than by the direction of the Board of Trade any fee, remuneration, or gratuity whatever in respect of any of the duties performed by him under this Act or the Acts amended hereby, he shall for every such offence incur a penalty not exceeding fifty pounds.—[Merchant Shipping Act, 1872, 35 & 36 Vic., c. 73, s. 15.]

Penalty on surveyor receiving remuneration otherwise than as provided under this Act.

309. The owner of every passenger steamer shall cause the same to be surveyed at the times hereinafter directed by one of the said shipwright surveyors and by one of the said engineer surveyors so appointed as aforesaid, such shipwright surveyor being, in the case of iron steamers, a person who is in the judgment of the Board of Trade properly qualified to survey such ships;

Owners to have surveys made by shipwright and engineer surveyors, and surveyors to give certificates.

Search of Passenger Steamers.

and such surveyors shall thereupon, if satisfied that they can with propriety do so, give to such owner declarations as follows:—

The declaration of the shipwright surveyor shall contain statements of the following particulars (that is to say)—

(1) That the hull of the ship is sufficient for the service intended, and in good condition:

(2) That the partitions, boats, life-buoys, lights, signals, compasses, and shelter for deck passengers, and the certificates of the master and mate or mates are such and in such condition as required by this Act:

(3) The time (if less than six months) for which the said hull and equipments will be sufficient:

(4) The limits (if any) beyond which, as regards the hull and equipments, the ship is in the surveyor's judgment not fit to ply:

(5) The number of passengers which the ship is in the judgment of the surveyor fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins, and in different parts of the deck and cabins; such numbers to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried, or other circumstances, as the case requires:

And the declaration of the engineer surveyor shall contain statements of the following particulars (that is to say)—

(1) That the machinery of the ship is sufficient for the service intended and in good condition:

(2) The time (if less than six months) for which such machinery will be sufficient:

(3) That the safety-valves and fire-hose are such and in such condition as are required by this Act:

(4) The limits of the weight to be placed on the safety-valves:

(5) The limits (if any) beyond which, as regards the machinery, the ship is in the surveyor's judgment not fit to ply:

And such declarations shall be in such form as the Board of Trade directs.

Declaration of engineer surveyor to contain statement concerning engineer's certificates.

309*a*. The declaration required to be given by the engineer surveyor under section 309 of the principal Act shall, in the case of a ship by this Act required to have a certificated engineer, contain, in addition to the statements in the said section mentioned, a statement that the certificate or certificates of the engineer or engineers of such ship is or are such and in such condition as is required by this Act.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 12.]

Grant of certificate and declaration.

309*b*. When any survey is made under this Act the surveyors making such survey shall forthwith, if satisfied that they can with propriety do so and on payment, by the owner or master, of the fees hereinafter mentioned, give to the owner or master of the steam-vessel surveyed a certificate an

declaration signed by them, and framed as nearly as the circumstances of each case will admit, in the form set forth in Schedule A hereto annexed:— *Survey of Passenger Steamers.*

SCHEDULE A.

Form of Surveyors' Certificate and Declaration.

Name of Steam-vessel.	Tonnage.	Where and where built, and Material.	Power.	Description of Engines and Age.	Description of Boiler and Age.	Ground Tackle.	Condition of Hull.	General Seaworthiness.	Name of Master and Number of Officers and Deck-crew and of Engineers and Engine-room Crew.	When and where expected, required, or desired.	Limits of, and Nature of service which the Vessel is usually put to.	Time, if more than 24 hours, for the Hull, Tackle, Engines, or any of the Equipments will be wanting.	Remarks.

We, the undersigned, declare that we have examined the above-named steamer, and to the best of our judgment the said her engines, as shown in the above statement, are fully sufficient for the service on which it is intended to employ the said steamer, that is to say, for (*as the case may be*).

A. B.

C. D.

[Survey of Steamers—Ben: Act V of 1862, s. 4.]

309*c*. When any survey is made under this Act, the surveyors making such survey shall forthwith, if satisfied that they can with propriety do so, and on payment by the owner or master of the fees hereinafter mentioned, give to the owner or master of the steam-vessel surveyed a certificate and declar- *Certificate of surveyors and declaration.*

Survey of Passenger Steamers.

ation signed by them, and framed in the form set forth in Schedule A hereto annexed :—

SCHEDULE A.

Form of Surveyors' Certificate and Declaration.

Name of Steamer.	Tonnage.	When and where built, and Materials.	Power.	Description and condition of Engines and Age.	Description and condition of Boilers and Age.	General Double.	Condition of Hull.	General Equipment.	Number of Masters and Number of Officers and Engineers and Enginemen.	When and where last Surveyed, Equipped or Seamed.	Limits (if any) beyond which the Vessel is not fit to ply.	Time, if less than six months, for which the Hull, Engines, Boilers, or any of the Equipments, will be sufficient.	REMARKS.

We, the undersigned, declare that we have examined the above-named steamer, and to the best of our judgment she, her engines, boats, and equipments, as shown in the above statement, are fully sufficient for the service on which it is intended to employ the said steamer, that is to say, for (*as the case may be*).

A. B.

C. D.

[Survey of Steamers—Bom. Act II of 1861, s. 4.]

Surveyors to grant certificate and declaration.

309*l*. When any survey is made under this Act, the surveyors making such survey shall forthwith, if satisfied that they can with propriety do so, and on payment by the owner or master of the ship surveyed of the fees hereinafter mentioned, give him a certificate and declaration signed by them and

framed as nearly as the circumstances of each case will admit in the form set forth in Schedule A hereto annexed :— *Survey of Passenger Steamers.*

SCHEDULE A.

(See Section 6.)

Form of Surveyors' Certificate and Declaration.

Name of Steam-vessel.	Tonnage.	When and where built, and Material.	Power.	Description of Engines and Age.	Description of Boilers and Age.	Gross of Tackle.	Condition of Hull.	General Equipment.	Name of Master and Number of Officers and Deck-crew, and of Boilermen and Engine-room Crew.	When and where last surveyed, repaired or cleaned.	Limits of ages beyond which the Vessel is not fit to ply.	Time, if less than six months, for which the Hull, Boilers, Engines, or any of the Equipments will be sufficient.

We, the undersigned, declare that we have examined the above-named steamer, and to the best of our judgment she, and her engines, as shown in the above statement, are fully sufficient for the service on which it is intended to employ the said steamer, that is to say, *for the case only but*

A. B.

C. D.

[Burmese Steamer Survey Act—Act XVI of 1871, s. 6.]

310 The said owner shall transmit such declarations to the Board of Trade within fourteen days after the dates of the receipt thereof respectively; and in default shall forfeit a sum not exceeding ten shillings for every day that the sending of such declarations is delayed; and such sum shall be paid upon the delivery of the certificate hereinafter mentioned, in addition to the fee payable for the same, and shall be applied in the same manner as such fees. *Transmission of declarations to Board of Trade. Penalty for delay.*

Survey of Passenger Steamers.

Times appointed for surveys and transmission of declarations.

311. In all cases where it is possible the said half-yearly surveys shall be made in the months of April and of October, and the declarations shall be transmitted on or before the thirtieth day of April and the thirty-first day of October respectively; but if the owner of any passenger steamer is unable to have the same surveyed in the month of April or October (as the case may be), either by reason of such ship being absent from the United Kingdom during the whole of those periods respectively, or by reason of such ship or the machinery thereof being under construction or repair, or of such ship being laid up in dock, or for any other reason satisfactory to the Board of Trade, then he shall have the same surveyed as aforesaid as soon thereafter as possible, and shall transmit such declarations to the Board of Trade within fourteen days after the receipt thereof, together with a statement of the reasons which have prevented the survey of such ship at the time hereinbefore prescribed, and shall, in case of delay in transmitting the declarations, be liable to a forfeiture similar to that mentioned in the last preceding section.

Surveys of steamers.

311*a*. Notwithstanding anything in the 311th section of the principal Act contained, it shall not be necessary for the surveys of passenger steamers to be made in the months of April and October; but no declaration shall be given by any surveyor under the fourth part of the said Act for a period exceeding six months; and no certificate issued by the Board of Trade shall remain in force more than six months from the date thereof.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 34.]

Board of Trade to issue certificate.

312. Upon the receipt of such declarations the Board of Trade shall, if satisfied that the provisions of the fourth part of this Act have been complied with, cause a certificate in duplicate to be prepared and issued, to the effect that the provisions of the law with respect to the survey of the ship and the transmission of declarations in respect thereof have been complied with; and such certificate shall state the limits (if any) beyond which, according to the declaration of the surveyors, such ship is not fit to ply, and shall also contain a statement of the number of passengers which, according to the declaration of the shipwright surveyor, such ship is fit to carry, distinguishing (if necessary) between the respective numbers to be carried on the deck and in the cabins, and in different parts of the deck and cabins, such number to be subject to such conditions and variations according to the time of year, the nature of the voyage, the cargo carried, and other circumstances, as the case requires.

Provision as to survey of foreign passenger steamer or emigrant ship.

312*a*. Where a foreign ship is a passenger steamer subject to the Merchant Shipping Act, 1854, and the Acts amending the same, or an emigrant ship subject to the Passengers Act, 1855, and the Acts amending the same, and the Board of Trade are satisfied, by the production of a foreign certificate of survey attested by a British Consular officer at the port of survey, that such ship has been officially surveyed at a foreign port, and are satisfied that the requirements of the said Acts, or any of them, are proved by such survey to

have been substantially complied with, the Board may, if they think fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give or direct one of their officers to give a certificate which shall have the same effect as if given upon survey under the said Acts or any of them: Provided that Her Majesty may by Order in Council direct that this section shall not apply in the case of an official survey at any foreign port at which it appears to Her Majesty that corresponding provisions are not extended to British ships.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 19.] *Survey of Passenger Steamers.*

312*b*. Where the legislature of any British possession provides for the survey of and grant of certificates for passenger steamers, and the Board of Trade report to Her Majesty that they are satisfied that the certificates are to the like effect, and are granted after a like survey, and in such manner as to be equally efficient with the certificates granted for the same purpose in the United Kingdom under the Acts relating to merchant shipping, it shall be lawful for Her Majesty by Order in Council— *Colonial certificates for passenger steamers.*

(1) to declare that the said certificates shall be of the same force as if they had been granted under the said Acts; and

(2) to declare that all or any of the provisions of the said Acts which relate to certificates granted for passenger steamers under those Acts shall either without modification or with such modifications as to Her Majesty may seem necessary, apply to the certificates referred to in the order; and

(3) to impose such conditions and to make such regulations with respect to the said certificates, and to the use, delivery, and cancellation thereof, as to Her Majesty may seem fit, and to impose penalties not exceeding fifty pounds for the breach of such conditions and regulations.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 17.]

312*c*. In every case where a passenger certificate has been granted to any steamer by the Board of Trade under the provisions of the Merchant Shipping Act, 1854, and remains still in force, it shall not be requisite for the purposes of the employment of such steamer under the Passengers Acts that she shall be again surveyed in her hull and machinery in order to qualify her for service under the Passengers Act, 1855,[1] and the Acts amending the same; but for the purposes of employment under those Acts such Board of Trade certificate shall be deemed to satisfy the requirements of the Passengers Acts with respect to such survey, and any further survey of the hull and machinery shall be dispensed with, and so long as a steam-ship is an emigrant ship, that is, a passenger ship within the meaning of the Passengers Act, 1855, and the Acts amending the same, and the provisions contained in the said Passengers Acts as to the survey of her hull, machinery, and equipments have been complied with, she shall not be subject to the provisions of the Merchant Shipping Act, *Provision against double survey in case of passenger steamers and emigrant ships.*

[1] The Governor-General has power to apply the Passengers Act, 1855, to India.

Survey of Passenger Steamers.

1854, with respect to the survey of and certificate for passenger steamers or to the enactments amending the same.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 18.]

Appeal on Refusal of certain Certificates to Ships.

Appeal on refusal of certain certificates under Merchant Shipping and Passengers Acts.

312*d*. Whereas by section three hundred and nine of the Merchant Shipping Act, 1854, and enactments amending the same, the owner of a passenger steamer as defined in that Act is required to cause the same to be surveyed by a shipwright surveyor and an engineer surveyor, and those surveyors are required to give declarations of certain particulars with respect to the sufficiency or conformity with the Act of the ship and equipments, and to the limits beyond which the ship is not fit to ply, and to the number of passengers which the ship is fit to carry, and of other particulars in the said section mentioned, and the Board of Trade, under section three hundred and twelve of the same Act, issue a certificate upon such declarations, and the passenger steamer cannot lawfully proceed to sea without obtaining such certificate.

And whereas under sections eleven and fifty of the Passengers Act, 1855, and the enactments amending the same, a passenger ship within the meaning of those sections (in this Act referred to as an emigrant ship) cannot lawfully proceed to sea without a certificate of clearance from an emigration officer, or other officer in those sections mentioned, showing that all the requirements of the said sections and enactments have been complied with, and that the ship is in the officer's opinion seaworthy, and that the passengers and crew are in a fit state to proceed to sea, and otherwise as therein mentioned;

And whereas by section thirty[1] of the Merchant Shipping Act Amendment Act, 1862, provision is made for preventing a ship from proceeding to sea in certain cases without a certificate from a surveyor or person appointed by the Board of Trade to the effect that the ship is properly provided with lights, and with the means of making fog signals;

And whereas it is expedient to give in the said cases such appeal as hereinafter mentioned: Be it therefore enacted that—

if a ship-owner feels aggrieved—

(1) by a declaration of a shipwright surveyor or an engineer surveyor respecting a passenger steamer under the above-recited enactments, or by the refusal of a surveyor to give the said declaration; or

(2) by the refusal of a certificate of clearance for an emigrant ship under the above-recited enactments; or

(3) by the refusal of a certificate as to lights or fog signals under the above-recited enactment,

[1] See s. 299*g*.

the owner may appeal in the prescribed manner to the court of survey for the port or district where the ship for the time being is.

On such appeal the judge of the court of survey shall report to the Board of Trade on the question raised by the appeal, and the Board of Trade, when satisfied that the requirements of the report and the other provisions of the said enactments have been complied with, may,—

(1) in the case of a passenger steamer give their certificate under section three hundred and twelve of the Merchant Shipping Act, 1854, and

(2) in the case of an emigrant ship give, or direct the emigration or other officer to give, a certificate of clearance under the above-mentioned enactments, and

(3) in the case of a refusal of a certificate as to lights or fog-signals give or direct a surveyor or other person appointed by them to give a certificate under section thirty of the Merchant Shipping Act Amendment Act, 1862.

Subject to any order made by the judge of the court of survey, the cost of and incidental to an appeal under this section shall follow the event.

Subject as aforesaid, the provisions of this Act with respect to the court of survey and appeals thereto, so far as consistent with the tenour thereof, shall apply to the court of survey when acting under this section, and to appeals under this section.

Where the survey of a ship is made for the purpose of a declaration or certificate under the above-recited enactments, the person appointed to make the survey shall, if so required by the owner, be accompanied on the survey by some person appointed by the owner, and in such case, if the said two persons agree, there shall be no appeal to the court of survey in pursuance of this section.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 14.]

313. The Board of Trade shall transmit such duplicate certificate to the shipping master or to some other public officer at such port as the owner may mention for the purpose, or at the port where the owner or his agent resides, or where the ship was surveyed and is for the time being lying, and shall cause notice of such transmission to be given by post or otherwise to the master or owner, or his agent; and the said shipping master or officer shall deliver such duplicate certificate to the said owner, master, or agent, on his applying and paying the fees and other sums (if any) herein mentioned as payable in that behalf; and in proving the due issue and transmission to the owner, agent, or master of such certificate, it shall be sufficient to show that the same has been duly received by such shipping master or public officer as aforesaid, and that due notice of the transmission thereof to such shipping master or officer has been given to such owner, master, or agent.

314. The owner of every passenger steamer requiring a certificate under the fourth part of this Act shall pay for every certificate granted by the Board of Trade such fees as such Board directs, not exceeding the fees mentioned in the table marked T in the schedule hereto.

Survey of Passenger Steamers.

TABLE T.

FEES to be charged for the Survey of Passenger Steamers.

	£	s.	d.
For steamers not exceeding 100 tons	2	0	0
For steamers exceeding 100 and not exceeding 300 tons	3	0	0
For steamers exceeding 300 and not exceeding 600 tons	4	0	0
And for every additional 300 tons an additional	1	0	0

Fees in respect of survey, &c.

314*a*. There shall be paid in respect of the several measurements, inspections, and surveys mentioned in the third schedule hereto such fees, not exceeding those specified in that behalf in the said schedule, as the Board of Trade may from time to time determine.

TABLE OF MAXIMUM FEES TO BE PAID FOR THE MEASUREMENT, SURVEY, AND INSPECTION OF MERCHANT SHIPS.

1. For measurement of tonnage.

	£	s.	d.
For a ship under 50 tons register tonnage	1	0	0
" from 50 to 100 tons "	1	10	0
" " 100 to 200 tons tonnage	2	0	0
" " 200 to 500 " "	3	0	0
" " 500 to 800 " "	4	0	0
" " 800 to 1,200 " "	5	0	0
" " 1,200 to 2,000 " "	6	0	0
" " 2,000 to 3,000 " "	7	0	0
" " 3,000 to 4,000 " "	8	0	0
" " 4,000 to 5,000 " "	9	0	0
" " 5,000 and upwards " "	10	0	0

2. For the inspection of the berthing or sleeping accommodation of the crew.

	£	s.	d.
For each visit to the ship	0	10	0

Provided as follows:—

(1) The aggregate amount of the fees for any such inspection shall not exceed one pound (£1) whatever be the number of separate visits.

(2) When the accommodation is inspected at the same time with the measurement of the tonnage, no separate fee shall be charged for such inspection.

3. For the survey of emigrant ships.

	£	s.	d.
(*a*) For an ordinary survey of the ship, and of her equipments, accommodation, stores, light, ventilation, sanitary arrangements, and medical stores	10	0	0
(*b*) For a special survey	15	0	0
(*c*) In respect of the medical examination of passengers and crew, for every hundred persons or fraction of hundred persons examined	1	0	0

4. For the inspection of lights and fog signals.

Survey of the inner Steamers.

	£.	s.	d.
For each visit made to a ship on the application of the owner, and for each visit made where the lights or fittings are found defective	0	10	0

Provided that the aggregate amount of fees for any such inspection shall not exceed one pound (£1) whatever be the number of separate visits.—[Merchant Shipping Act, 1873, 36 & 37 Vic., c 85, s. 30.]

314*b*. For every survey made under this Act, the owner or master of the steam-vessel surveyed shall pay to the surveyors making the same a fee calculated on the tonnage of the vessel according to the rates in schedule B hereto annexed. Fee for survey.

Rates of Fees to be charged (referred to in Section 10).

	Rs.
For steamers of less than 200 tons	20
" " 200 tons and up to 350	25
" " 350 " " " 700	30
" " 700 " " " 1,000	40
" " 1,000 " " " 1,500	50
" " 1,500 " and upwards	60

[Survey of Steamers—Ben: Act V of 1862, s. 10.]

As to recovery of fees, see s. 321k.

314*c*. For every survey made under this Act, the owner or master of the steam-vessel surveyed shall pay to each of the surveyors[1] making the same a fee calculated on the tonnage of the vessel according to the rates in schedule B hereto annexed. Fee for survey.

SCHEDULE B. (*a*)

Rate of Fees to be charged (referred to in Section 10) for each Survey, whether one or more Surveyors are employed.

	Rs.
For steamers of less than 200 tons register	15
" 200 tons register and up to 350 tons register	20
" 350 " 700 "	25
" 700 " 1,000 "	30
" 1,000 " and upwards	35

[Survey of Steamers—Bom: Act II of 1864, s. 10.]

As to recovery of fees, see s. 321l.

314*d*. It shall be lawful for the Lieutenant-Governor from time to time, by an order to be published in the *Calcutta Gazette*, to direct that in any port Power to impose additional fees.

[1] Bom. Act IV of 1873, s. 11.

Survey fees where steamers.

of survey other than Calcutta, in addition to the fees imposed by the said Act V of 1862, there shall be paid, for every survey of a steam-vessel in such port, by the owner or master of such steam-vessel such further fee, for or towards the expense of the journey of a surveyor to such port, as in such order shall be set forth; and from time to time in like manner to alter, vary or revoke any such order; and every fee so to be payable shall be recoverable by the ways and means in the said Act provided for the recovery of the fees thereby imposed. [The Steam-boat Survey Amendment Act, 1868—Ben: Act I of 1868, s. 5.]

Fees for survey.

314*e*. For every survey made under this Act, the owner or master of the steam-vessel surveyed shall pay to each of the surveyors making the same a fee, calculated on the tonnage of the vessel according to the rates in schedule B hereto annexed:—

SCHEDULE B.

Rates of Fees.

				Rs.
For steamers of less than			200 tons	20
" "	200 tons and up to		350 "	25
" "	350 "	" "	700 "	30
" "	700 "	" "	1,000 "	40
" "	1,000 "	" "	1,500 "	50
" "	1,500 "	and upwards		60

[Burmese Steamer Survey Act—Act XVI of 1871, s. 10.]

As to recovery of fines, see s. 321f.

Increase of fees.

314*f*. Whenever two surveyors shall be employed in making a survey under the provisions of Act V of 1862 or Act I of 1868 passed by the Lieutenant-Governor of Bengal in Council, the owner or master of the steam-vessel surveyed shall pay to each of the surveyors making the same a fee calculated on the tonnage of the vessel according to the rates in schedule B to the said Act V of 1862 annexed, and such further fee as is provided in section 5 of Act I of 1868[1] passed by the Lieutenant-Governor of Bengal in Council.—[Act to increase the Fees for Survey of Steam-vessels—Ben: Act III of 1871 s. 1.][2]

Power to impose additional fees.

314*g*. It shall be lawful for the Governor of Bombay in Council, from time to time, by an order to be published in the Government Gazette, to direct that any port or place of survey other than Bombay, in addition to the fees imposed by the said Act II of 1864, there shall be paid for every survey of a steam-vessel in such port or place, by the owner or master of such steam vessel, such further fee, for or towards the expense of the journey of a surveyor to such port or place, as in such order shall be set forth, and from time to time. —[Steam-vessels Survey Amendment Act—Bom: Act IV of 1873, s. 13.]

315. No certificate shall be held to be in force for the purposes of the fourth part of this Act beyond the date fixed by the Board of Trade for the

[1] See s. 314*d*.

[2] Ben. Act III of 1871 is to be read with and as part of Ben: Act V of 1862 and Act I of 1868.

Survey of Passenger Steamers.

How long certificates to continue in force.

expiration thereof; and no certificate shall be in force after notice is given by the Board of Trade to the owner, agent, or master of the ship to which the same relates that such Board has cancelled or revoked the same: provided that, if any passenger steamer is absent from the United Kingdom at the time when her certificate expires, no penalty shall be incurred for the want of a certificate until she first begins to ply with passengers after her next subsequent return to the United Kingdom; and the Board of Trade may require any certificate which has expired, or has been revoked or cancelled, to be delivered up as it directs; and any owner or master who without reasonable cause neglects or refuses to comply with such requirement shall incur a penalty not exceeding ten pounds.

Duration of certificate.

315*a*. No certificate or declaration shall be held to be in force for the purposes of this Act after the expiration of six calendar months from the date thereof:

Proviso as to vessels absent when certificate expires.

Provided that, if any steam-vessel (*shall not be in any port of survey*)[1] when her certificate and declaration expire, no penalty shall be incurred for the want of a certificate and declaration, until she first begins to ply, or is about to ply, after her next subsequent (*arrival at some port of survey*).[1]

Delivery of expired or revoked certificate.

And the Lieutenant-Governor of Bengal, or any officer appointed by him for that purpose,[2] may require any certificate and declaration, which has expired or has been revoked or cancelled, to be delivered up as may be directed; and any owner or master or other person who, without reasonable cause, neglects or refuses to comply with such requirement, shall incur a penalty not exceeding one hundred rupees for each offence.—[Survey of Steamers—Ben: Act V of 1862, s. 12.]

Duration of certificate.

315*b*. No certificate or declaration shall be held to be in force for the purposes of this Act after the expiration of six calendar months from the date thereof:

Proviso as to absence when certificate expires.

Provided that, if any steam-vessel is absent when her certificate and declaration expire, no penalty shall be incurred for the want of a certificate and declaration, until she first begins to ply or is about to ply after her next subsequent return to any of the ports, harbours, rivers, or waters of the Bombay Presidency.

Power to require surrender of expired certificates.

And the Governor of Bombay in Council, or any officer appointed by him for that purpose, may require any certificate and declaration, which has expired or has been revoked or cancelled, to be delivered up as may be directed.

And any owner or master or other person, who without reasonable cause neglects or refuses to comply with such requirement, shall be deemed guilty of contempt of lawful authority, and be punishable under section 175[3] of the Indian Penal Code.—[Survey of Steamers—Bom: Act II of 1864, s. 12.]—

[1] Amended by Bengal Act No. I of 1868, s. 4.

[2] The Master Attendant. *Calcutta Gazette*, 1862, p. 2211.

[3] S. 175 I. P. C. relates punishment for omission to produce documents to a public servant by a person legally bound to produce such documents.

Survey of Passenger Steamers.

Certificates to be in force only six months. Provision for vessels absent when certificate expires.

315*c*. No certificate or declaration shall be in force for the purposes of this Act after the expiration of six months from the date thereof:

Provided that, if any steam-vessel is not in any port of survey when her certificate and declaration expire, no penalty shall be incurred for the want of a certificate and declaration, until she first begins to ply, or is about to ply, after her next subsequent arrival at some port of survey.

Power to require delivery of expired certificates.

The Chief Commissioner may require any certificate and declaration which has expired or has been revoked or cancelled to be delivered up as may be directed.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 12.]

Refusal to comply with requirements of section 12.

315*d*. Any owner or master or other person who without reasonable cause neglects or refuses to comply with any requirement made under section 12[1] shall be punished with fine not exceeding one hundred rupees for each offence.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 31.]

Revocation of Surveyors' Certificates.

Board of Trade may cancel certificates and revoke fresh declarations.

316. The Board of Trade may revoke and cancel such certificates in any case in which it has reason to believe—

(1) that the declarations of the sufficiency and good condition of the hull, equipments, and machinery of any passenger steamer, or either of them, have been fraudulently or erroneously made; or

(2) that such certificate has otherwise been issued upon false or erroneous information; or

(3) that since the making of such declarations the hull, equipments, or machinery of such ship have sustained any injury, or are otherwise insufficient:

And in every such case the Board of Trade may, if it thinks fit, require the owner to have the hull, equipments, or machinery of such ship again surveyed, and to transmit a further declaration or declarations of the sufficiency and good condition thereof, before re-issuing any certificate or granting a fresh one in lieu thereof.

Power to cancel certificate and declaration.

316*a*. The Lieutenant-Governor of Bengal, or any officer appointed or authorised by him for that purpose,[2] may revoke and cancel any certificate and declaration granted under this Act in any case in which he has reason to believe—

(1) that the certificate and declaration of the sufficiency and good condition of the hull, equipments, and machinery of any steam-vessel, or either of them, have been fraudulently or erroneously given or made; or

(2) that such certificate and declaration have otherwise been issued upon false or erroneous information; or

[1] Section 315*c*.

[2] The Master-Attendant, *Calcutta Gazette*, 1862, p. 2211.

(3) that since the giving and making of such certificate and declaration, the hull, equipments, or machinery of such ship have sustained any injury, or are otherwise insufficient.

Survey of Passenger Steamers.

And in every such case the Lieutenant-Governor of Bengal, or such officer as last aforesaid, may, if he thinks fit, require the owner or master to have such steam-vessel again surveyed as herein provided.—[Survey of Steamers—Ben : Act V of 1862, s. 13.]

Power to require re-survey.

316*b*. The Governor of Bombay in Council may revoke and cancel any certificate and declaration given or made under this Act, in any case in which he has reason to believe—

Power to revoke and cancel certificate and declaration.

(1) that the certificate or declaration of the sufficiency and good condition of the hull, boats, equipments, and machinery of any steam-vessel has been fraudulently given or erroneously made ; or

(2) that such certificate or declaration has otherwise been issued upon false or erroneous information ; or

(3) that since the giving and making of such certificate and declaration, the hull, boats, equipments, or machinery of such ship have sustained any injury or are otherwise insufficient.

And in every such case the Governor of Bombay in Council may, if he thinks fit, require the owner or master to have such steam-vessel, boats, equipments, and machinery again surveyed as herein provided.—[Survey of Steamers—Bom: Act II of 1864, s. 13.]

Power to require re-survey.

316*c*. The Chief Commissioner may revoke and cancel any certificate and declaration granted under this Act in any case in which he has reason to believe—

Power to cancel certificate and declaration, and

(1) that the certificate and declaration of the sufficiency and good condition of the hull, equipments, and machinery of any steam-vessel or either of them have been fraudulently or erroneously given or made ; or

Power to order re-survey.

(2) that such certificate and declaration have otherwise been issued upon false or erroneous information ; or

(3) that since the giving and making of such certificate and declaration the hull, equipments, or machinery of such vessel have sustained any injury or are otherwise insufficient.

And in every such case the Chief Commissioner may, if he thinks fit, require the owner or master to have such steam-vessel again surveyed as herein provided.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 13.]

Copy of certificate to be placed in conspicuous part of ship.

317. The owner or master of every passenger steamer shall forthwith on the transmission of any such certificate as aforesaid to him or his agent cause one of the duplicates thereof so transmitted to be put up in some conspicuous part of the ship, so as to be visible to all persons on board the same, and shall cause it to be continued so put up so long as such certificate remains in force and such ship is in use ; and in default such owner or master shall for every offence incur a penalty not exceeding ten pounds.

Survey of Passenger Steamers.

Certificate to be hung up in conspicuous part of vessel.

317*a*. Each certificate and declaration granted by surveyors under this Act shall be hung up, and remain at all times suspended, in some conspicuous part of the vessel for which the same is granted, where the same may be easily read; and in default of compliance with this provision, every owner or master shall be liable to a penalty not exceeding one hundred rupees for each offence, such fine to be leviable by distraint or sale of personal property.—[Survey of Steamers—Ben: Act V of 1862, s. 11.]

Certificates to be hung up in conspicuous part of vessel.

317*b*. The certificate and declaration granted by surveyors under this Act shall be hung up, and remain at all times suspended, where the same may be easily read, in some conspicuous part of the vessel for which the same is granted; and, in default of compliance with this provision, every owner or master shall be liable to a penalty not exceeding one hundred rupees for each offence.—[Survey of Steamers—Bom: Act II of 1864, s. 11.]

Certificate to be hung up in vessel.

317*c*. Each certificate and declaration granted by surveyors under this Act shall be hung up, and remain at all times suspended, in some conspicuous part of the vessel for which the same is granted, where the same may be easily read.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 11.]

Neglect to hang up certificate and declaration.

317*d*. The owner or master of every steam-vessel, in which the certificate and declaration granted under this Act is not hung up and does not remain in manner provided by section eleven, shall for each offence be punished with fine not exceeding one hundred rupees.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 30.]

No voyage to be taken without Certificate: Penalty.

Ship not to proceed on her voyage without certificate.

318. It shall not be lawful for any passenger steamer to proceed to sea or upon any voyage or excursion with any passengers on board, *unless the owner thereof has transmitted to the Board of Trade the declarations hereinbefore required, nor* [Repealed, 39 & 40 Vic., 80, s. 15] unless the owner or master thereof has received from such Board such a certificate as hereinbefore provided for, such certificate being a certificate applicable to the voyage or excursion on which such ship is about to proceed; and no officer of Customs shall grant any clearance or transire for any passenger steamer unless upon the production of such certificate as aforesaid (being a certificate then in force and applicable as aforesaid); and if any passenger steamer attempts to ply or go to sea without such production, any such officer may detain her until such certificate is produced; and if any passenger steamer plies or goes to sea with any passengers on board, without having one of the duplicates of such certificate as aforesaid (being a certificate then in force, and applicable as aforesaid so put up as aforesaid in some conspicuous part of the ship, the owner thereof shall for such offence incur a penalty not exceeding one hundred pounds, and the master of such ship shall also incur a further penalty not exceeding twenty pounds.

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No clearance to steamer for voyage for which she has not got survey certificate.

318*a*. No officer of Customs shall grant a clearance, nor shall any pilot be assigned, to any steam-vessel liable to be surveyed under this Act, which shall not have been duly furnished with a certificate and declaration under the provisions of this Act applicable to the voyage on which she is about to proceed, or the service on which she is about to be employed; and if any steam-vessel liable to be surveyed under this Act shall leave or attempt to leave the Port of Calcutta (*or any other port of survey*)[1] without such certificate and declaration applicable to the voyage on which she is about to proceed, or the service on which she is about to be employed, the owner or master of such steam-vessel shall be liable to a fine not exceeding one thousand rupees for each offence; and if there be any officer of Customs or any pilot on board of such steam-vessel, he may detain her until she is duly furnished with such certificate and declaration.—[Survey of Steamers—Ben: Act V of 1862, s. 5.]

Master or officer who is licensed pilot attempting to take ship out without certificate liable to lose license.

318*b*. If the commander or any other officer of a tug-steamer or of any other steam-vessel liable to be surveyed under this Act is a licensed pilot and shall leave or attempt to leave the port of Calcutta (*or any other port of survey*)[1] in such tug-steamer or steam-vessel without such tug-steamer or steam-vessel being duly furnished with a certificate and declaration under the provisions of this Act applicable to the voyage on which she is about to proceed, or the service on which she is about to be employed, such commander or other officer shall be liable to have his license as a pilot taken away from him entirely, or suspended for any period by the Lieutenant-Governor of Bengal, as the Lieutenant-Governor may see fit to order.—[Survey of Steamers—Ben: Act V of 1862, s. 6.]

No clearance to steamer for voyage for which she has no certificate.

318*c*. No officer of Customs shall grant a clearance, nor shall any pilot be assigned, to any steam-vessel liable to be surveyed under this Act, which shall not have been duly furnished with a certificate and declaration under the provisions of this Act applicable to the voyage on which she is about to proceed, or the service on which she is about to be employed.

Penalty for leaving port without certificate.

And if any steam-vessel liable to be surveyed under this Act shall leave or attempt to leave any of the ports, harbours, rivers, or waters of the Presidency of Bombay without such certificate and declaration applicable to the voyage on which she is about to proceed, or the service on which she is about to be employed, the owner or master of such steam-vessel shall be liable to a fine not exceeding one thousand rupees for each offence, and if there be any officer of Customs or any pilot on board of such steam-vessel, he may detain her until she is duly furnished with such certificate and declaration—[Survey of Steamers—Bom: Act II of 1864, s. 5.]

Master or officer being licensed pilot attempting to take ship out of port with

318*d*. If the commander or any other officer of a steam-vessel liable to be surveyed under this Act is a licensed pilot, and shall leave or attempt to leave any of the ports, harbours, rivers, or waters of the Presidency of Bombay, in

[1] Bengal Act I of 1868, s. 3.

Survey of Steamers by surveyors.

If the surveyors appointed under this section unanimously refuse to give any certificate and declaration, or agree as to the terms of their certificate and declaration, such refusal, or such certificate and declaration, shall be final and conclusive; but if they do not agree, the refusal originally made, or the certificate and declaration originally granted, by the surveyors who surveyed the said steam-vessel in the first instance, shall remain and be of full force and effect.—[Survey of Steamers—Ben: Act V of 1862, s. 14.]

If correctness of survey doubted, Government may order second survey by other surveyors.

321*b*. If any steam-vessel shall be surveyed under the provisions of this Act, and if the surveyors shall decline to give any certificate or declaration, or shall give a certificate or declaration with which the owner or master of the steam-vessel shall be dissatisfied, the Governor of Bombay in Council may, on the application of such owner or master, appoint two other surveyors to survey the said steam-vessel.

The surveyors so appointed shall forthwith survey the said steam-vessel, and shall either decline to give any certificate and declaration, or shall give such certificate and declaration as under the circumstances may seem to them proper.

Every survey made under this section shall be made subject to all the provisions and rules, both as to the payment of fees and otherwise, which are applicable to surveys made in ordinary cases under this Act.

If the surveyors appointed under this section unanimously refuse to give any certificate and declaration, or agree as to the terms of their certificate and declaration, such refusal, or such certificate and declaration, shall be final and conclusive; but if they do not agree, the refusal originally made, or the certificate and declaration originally granted, by the surveyors who surveyed the said steam-vessel in the first instance, shall remain and be of full force and effect.—[Survey of Steamers—Bom: Act II of 1864, s. 14.]

Power to order a second survey.

321*c*. If any steam-vessel is surveyed under the provisions of this Act, and if the surveyors decline to give any certificate or declaration, or give a certificate or declaration with which the owner or master of the steam-vessel is dissatisfied, the Chief Commissioner may, on the application of such owner or master, appoint two other competent surveyors to survey the said steam-vessel.

The surveyors so appointed shall forthwith survey the said steam-vessel, and shall either decline to give any certificate and declaration, or shall give such certificate and declaration as under the circumstances may seem to them proper.

Every survey made under this section shall be made subject to all the provisions and rules, both as to the payment of fees and otherwise, which are applicable to surveys made in ordinary cases under this Act.

If the surveyors appointed under this section unanimously refuse to give any certificate and declaration, or agree as to the terms of their certificate and declaration, such refusal, or such certificate and declaration, shall be final and conclusive; but if they do not agree, the refusal originally made, or the

certificate and declaration originally granted, by the surveyors who surveyed the said steam-vessel in the first instance, shall remain in force.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 14.] *Survey of Passenger Steamers.*

Power to investigate cause of explosions or direct special survey.

321*d*. Whenever any explosion shall occur on board of any steam-vessel subject to this Act, it shall be lawful for the Lieutenant-Governor, if he shall think fit, to direct that an investigation of the cause of such explosion be made by such person or persons as he shall think fit. *Power to investigate causes of explosions.*

The person or persons authorised by the Lieutenant-Governor to make such investigation may enter into and upon such steam-vessel with all necessary workmen and labourers, and remove any portion of such steam-vessel, or of the machinery thereof, for the purpose of such investigation, and shall report the cause of such explosion.—[Steam-boat Survey Amendment Act, 1868—Ben: Act I of 1868, s. 6.]

321*e*. Whenever any boiler-explosion shall occur on board of any steam-vessel either during her voyage to or after her arrival in any port, harbour, river or water of the Presidency of Bombay, or whenever the Governor of Bombay in Council shall have good reason to believe that any steam-vessel lying in any such port, harbour, river, or water is, by reason of the defective condition of her hull, equipments, or machinery, or by reason of overloading or improper loading, unfit to proceed to sea, without serious danger to human life, the said Governor of Bombay in Council may, if he shall think fit, direct an investigation to be made of the cause of such explosion, or a survey to be made of such steam-vessel and of the hull, equipments, machinery, and cargo thereof, and the said Governor of Bombay in Council may, if he shall think fit, order any such steam-vessel to be detained for the purposes of such investigation or survey, and thereupon any officer of Customs shall detain such steam-vessel until ordered to be released by the said Governor of Bombay in Council.—[Steam-vessel Survey Amendment Act—Bom: Act IV of 1873, s. 8.] *Power to investigate cause of explosion or direct special survey.*

321*f*. Upon the receipt of the report of such investigation or survey, the Governor of Bombay in Council may, if in his opinion such steam-vessel cannot proceed to sea without serious danger to human life, make such further order as to the detention of such steam-vessel, or as to her release, either absolutely or upon the performance of such conditions with respect to the execution of repairs or alterations or the unloading or reloading of cargo as the said Governor of Bombay in Council may impose, and the said Governor of Bombay in Council may also from time to time vary or add to such order.—[Steam-vessel Survey Amendment Act—Bom: Act IV of 1873, s. 9.] *Order on receipt of report of investigation or survey.*

321*g*. If upon an investigation or survey held under the provisions of section eight of the Act any steam-vessel shall be shown to have been at the time of such investigation or survey unfit to proceed to sea without serious *Expenses of investigation or survey by whom to be paid.*

Survey of Steamers.

danger to human life, the expenses incurred for making such investigation or survey shall be paid by the owner of such steam-vessel. But if such unfitness shall not be so shown, such expenses shall be borne by the Government.—[Steam-vessel Survey Amendment Act—Bom: Act IV of 1873, s. 10.]

Power to investigate causes of explosions.

321*h*. Whenever any explosion occurs on board of any steam-vessel subject to this Act, the Chief Commissioner may, if he thinks fit, direct that an investigation of the cause of such explosion be made by such person or persons as he thinks fit.

Such person or persons may enter into and upon such steam-vessel with all necessary workmen and labourers, and remove any portion of such steam-vessel, or of the machinery thereof, for the purpose of such investigation, and shall report the cause of such explosion.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 15.]

Recovery of Fines and Fees.

Offences by whom tried.

321*i*. Any case arising out of this Act may be tried by any officer having the full power of a magistrate, within whose jurisdiction the offence may have been committed, or by any police magistrate of the town of Bombay.

Penalties and fees how recovered.

The provisions of section sixty-six of Act XII of 1875 (to consolidate and amend the law relating to ports and port-dues) are hereby extended to all penalties imposed under this Act; and all fees due under section ten of this Act shall be recoverable in like manner as penalties are recoverable.—[Survey of Steamers—Bom: Act II of 1864, s. 16.]

Offences under this Act by whom to be tried.

321*j*. Any case arising out of this Act may be tried by any officer having the full powers of a magistrate,[1] within whose jurisdiction the offence may have been committed, or by any police magistrate of the town of Rangoon.

Fees how recoverable.

The provisions of section sixty-six of Act XII of 1875 (to consolidate and amend the law relating to ports and port-dues) are hereby extended to all fines imposed under this Act, and all fees due under section ten shall be recoverable as if they were fines.—[Burmese Steamer Survey Act—Act XVI of 1871, s. 33.]

Offences under Act by whom tried.

321*k*. Any case arising out of this Act may be tried by any officer having the full powers of a magistrate, within whose jurisdiction the offence may have been committed, or by any police magistrate of the town of Calcutta. The provisions of section sixty-six of the Indian Ports Act, 1875, are hereby extended to all penalties imposed under this Act; and all fees due under section 10 of this Act shall be recoverable in like manner as penalties are recoverable.—[Survey of Steamers—Ben: Act V of 1862, s. 15.]

Local Government may delegate powers.

321*l*. The Local Government may, from time to time, delegate to the Commissioners all or any of the powers conferred on the Chief Commissioner

[1] A magistrate of the first class, Act X of 1882, s. 3, cl. 2.

of British Burma within the port under the Burmese Steamer Survey Act, 1871, and may at any time resume the same.—[Rangoon Port Commissioners Act, 1879—Act XV of 1879, s. 43.]

Survey of Passenger Steamers.

Resume survey.

Misconduct by Passengers in Steamers.

Misconduct by Passengers in Steamers.

322. *The following offenders (that is to say)—*

Penalties on persons loitering on board.

(1) *any person who, after having been refused admission into any steamer by the owner or person in charge thereof, or by any person in the employ of the owner thereof, on account of such steamer being full, and after having had the full amount of his fare (if he has paid the same) returned or tendered to him, nevertheless persists in attempting to enter the same; and*

Or refusing to quit the ship.

(2) *any person having got on board any steamer, who, upon being requested on the like account by the owner or person in charge thereof, or by any person in the employ of the owner, to leave such steamer before the same has quitted the place at which such person got on board, and upon having the full amount of his fare (if he has paid the same) returned or tendered to him, refuses to comply with such request;*

shall for each such offence incur a penalty not exceeding forty shillings, to be paid to the said owner.—[Repealed by 25 & 26 Vic., c. 63, s. 2.]

323. *The following offenders (that is to say)—*

Penalty for avoiding payment of fares.

(1) *any person who travels or attempts to travel in any passenger steamer which has been duly surveyed in conformity with the provisions of this Act without having previously paid his fare, and with intent to avoid payment thereof; and*

(2) *any person who, having paid his fare for a certain distance, knowingly and wilfully proceeds in any such steamer beyond such distance without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof; and*

(3) *any person who knowingly and wilfully refuses or neglects, or arriving at the point to which he has paid his fare, to quit any such steamer;*

shall for every such offence incur a penalty not exceeding five shillings, in addition to the fare payable by him, such penalty to be payable to the owner of such steamer.—[Repealed by 25 & 26 Vic., c. 63, s. 2.]

323a. The following offenders (that is to say)—

Penalties on drunken or disorderly passengers.

(1) any person who, being drunken or disorderly, has been on that account refused admission into any duly surveyed passenger steamer by the owner or any person in his employ, and who, after having had the amount of his fare (if he has paid the same) returned or tendered to him, nevertheless persists in attempting to enter such steamer;

Misconduct by Passengers in Steamers.

(2) any person who, being drunken or disorderly on board any such steamer, is requested by the owner or any person in his employ to leave the same at any place in the United Kingdom at which he can conveniently so do, and who, having had the amount of his fare (if he has paid the same) returned or tendered to him, refuses to comply with such request;

On persons molesting passengers.

(3) any person on board any such steamer who, after warning by the master or any other officer of the steamer, molests or continues to molest any passenger;

On persons forcing their way on board the ship when full.

(4) any person who, after having been refused admission into any such steamer by the owner or any person in his employ on account of such steamer being full, and who, after having had the full amount of his fare (if he has paid the same) returned or tendered to him, nevertheless persists in attempting to enter the same;

On persons refusing to quit the ship when full.

(5) any person, having got on board any such steamer, who, upon being requested on the like account by the owner or any person in his employ to leave such steamer before the same has quitted the place at which such person got on board, and who, upon having the full amount of his fare (if he has paid the same) returned or tendered to him, refuses to comply with such request;

On endeavoring to avoid payment of fares.

(6) any person who travels or attempts to travel in any such steamer without having previously paid his fare, and with intent to avoid payment thereof.

(7) any person who, having paid his fare for a certain distance, knowingly and wilfully proceeds in any such steamer beyond such distance without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof;

(8) any person who knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit any such steamer; and

(9) any person on board any such steamer who does not, when required by the master or other officer of such steamer, either pay his fare or exhibit such ticket or other receipt (if any) showing the payment of his fare as is usually given to persons travelling by and paying their fare for such steamer;

shall for every such offence be liable to a penalty not exceeding forty shillings; but such liability shall not prejudice the recovery of any fare payable by him.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 35.]

Penalty for injuring steamer &c.

323*b*. Any person on board any such steamer who wilfully does or causes to be done anything in such a manner as to obstruct or injure any part of the

machinery or tackle of such steamer, or to obstruct, impede, or molest the crew or any of them in the navigation or management of such steamer, or otherwise in the execution of their duty upon or about such steamer, shall for every such offence be liable to a penalty not exceeding twenty pounds.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 36.]

Misconduct of Passengers in Steamers.

molesting crew.

323c. It shall be lawful for the master or other officer of any duly surveyed passenger steamer, and for all persons called by him to his assistance, to detain any person who has committed any offence against any of the provisions of the two last preceding sections of this Act, and whose name and address are unknown to such officer, and to convey such offender with all convenient despatch before some justice without any warrant or other authority than this Act; and such justice shall have jurisdiction to try the case, and shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 37.]

Detention and trial of offenders.

324. Every person who, having committed any of the offences mentioned in the two last preceding sections[1] or either of them, refuses on application of the master of the ship, or of any other person in the employ of the owner thereof, to give his name and address, or who on such application gives a false name or address, shall incur a penalty not exceeding twenty pounds, to be paid to the said owner.

Persons refusing to give their name and address.

325. The master of any home-trade passenger steam-ship may refuse to receive on board thereof any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself in such a manner, as to cause annoyance to other passengers on board, or if such person is on board, may put him on shore at any convenient place; and no person so refused admittance or put on shore shall be entitled to the return of any fare he may have paid.

Power to refuse or remove passengers who are drunk or misconduct themselves.

ACCIDENTS.

Report to be made of Accidents.

Accidents.

326. Whenever any steam-ship has sustained or caused any accident occasioning loss of life or any serious injury to any person, or has received any material damage affecting her seaworthiness or her efficiency, either in her hull or in any part of her machinery, the owner or master shall within twenty-four hours after the happening of such accident or damage, or as soon thereafter as possible, send to the Board of Trade, by letter signed by such owner or master, a report of such accident or damage, and of the probable occasion thereof, stating the name of the ship, the port to which she belongs, and the place where she is; and if such owner or master neglect so to do, he shall for such offence incur a penalty not exceeding fifty pounds.

Accidents to steam-ships to be reported to Board of Trade.

[1] See ss. 322 & 323.

Accidents.

Report of casualties to be made to Local Government.

326*a*. (1) Whenever any magistrate, or any officer appointed by the Local Government in this behalf, receives credible information that—

(*a*) any ship has been lost, abandoned, stranded, or materially damaged on or near the coasts of British India; or

(*b*) by reason of any casualty happening to, or on board of, any ship on or near those coasts loss of life has ensued; or

(*c*) any ship has caused loss or material damage to any other ship on or near those coasts; or

(*d*) any such loss, abandonment, stranding, damage, or casualty has happened elsewhere to, or on board of, any British ship, and any competent witnesses thereof have arrived or are to be found at any place in British India; or

(*e*) any British ship is supposed to have been lost, and any evidence can be obtained in British India as to the circumstances under which she proceeded to sea or was last heard of;

he shall forthwith report in writing the information to the Local Government.

(2) In the cases mentioned in clauses (*a*), (*b*), and (*c*), the master, pilot, harbour-master, or other person in charge of the ship, or (where two ships are concerned) in charge of each ship, at the time of the loss, abandonment, stranding, damage, or casualty, and

in cases under clause (*d*), where the master of the ship concerned, or (except in the case of a loss) where the ship concerned, proceeds to any place in British India from the place where the loss, abandonment, stranding, damage, or casualty has occurred, the master of the ship,

shall, on arriving in British India, give immediate notice of the loss, abandonment, stranding, damage, or casualty to the nearest magistrate, or, when he arrives at a port in British India, to the officer appointed as aforesaid at that port.

(3) Any person bound to give notice under this section and wilfully failing to give the same shall be punished with fine which may extend to five hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to three months.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 6.]

Notice of accidents to be given to Local Government.

326*b*. In any of the cases following (namely)—

(*a*) whenever any inland steam-vessel is wrecked, abandoned, or materially damaged in any part of the river Hugli below the town of Calcutta;

(*b*) whenever any such vessel causes loss or material damage to any other inland steam-vessel or to any sea-going vessel in the aforesaid part of the river Hugli;

(*c*) whenever, by reason of any casualty happening to or on board of any inland steam-vessel to the aforesaid part of the river Hugli, loss of life ensues,

the commander shall give immediate notice of such wreck, abandonment, loss, damage, or casualty to the Port officer of Calcutta. Any commander wilfully failing to give notice under this section, shall be liable to a fine not exceeding five hundred rupees.

Accidents.

The Port officer receiving such notice shall without delay communicate the same to the Local Government.—[Inland Steam-vessels—Ben: Act VII of 1879, s. 6.]

327. *If the owner of any steam-ship have reason, owing to the non-appearance of such ship, or to any other circumstance, to apprehend that such ship has been wholly lost, he shall, as soon as conveniently may be, send notice thereof in like manner to the Board of Trade, and if he neglect so to do within a reasonable time, he shall for each offence incur a penalty not exceeding fifty pounds.* [Repealed by Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 33.]

Notice to be given of presumed loss of steam-ship.

327a. If the managing owner, or, in the event of there being no managing owner, the ship's husband of any British ship have reason, owing to the non-appearance of such ship, or to any other circumstance, to apprehend that such ship has been wholly lost, he shall, as soon as conveniently may be, send to the Board of Trade notice in writing of such loss and of the probable occasion thereof, stating the name of the ship and her official number (if any), and the port to which she belongs, and if he neglect to do so within a reasonable time, he shall incur a penalty not exceeding fifty pounds.—[Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 22.]

Notice to be given of presumed loss of ship.

328. In every case of collision in which it is practicable so to do, the master shall immediately after the occurrence cause a statement thereof, and of the circumstances under which the same occurred, to be entered in the official log book (if any), such entry to be signed by the master, and also by the mate or one of the crew, and in default shall incur a penalty not exceeding twenty pounds.

Collisions to be entered in official log.

Prevention of Accidents in Ports, and Preservation of Ports.

Power to make Port Rules.

328a. The Local Government may, from time to time, make such rules[1] consistent with this Act, as it may think necessary for any of the following purposes, namely,—

Local Government empowered to make port rules as to—

(*a*) for regulating the time at which, and the manner in which, vessels shall enter into or go out of any port subject to this Act:

entering or leaving port.

(*b*) for regulating the berths, stations and anchorages to be occupied by vessels in any such port:

Berths of vessels.

[1] Every declaration, rule and order of a Local Government made in pursuance of this Act shall be published in the official Gazette, and a copy fixed up in the Custom-house [s. 42, Indian Ports Act, 1875—Act XII of 1875].

Power to make port Rules.

striking yards, &c.;

removal of spars, &c.;

taking in or discharging ballast;

keeping free passage;

regulating the anchoring;

moving and warping;

use of mooring buoys;

rates for use of mooring buoys;

cargo boats;

fires and lights;

signal-lights;

number of crew;

(*c*) for striking the yards and top-masts, and for rigging-in the booms and yards, of vessels in any such port; and for swinging or taking-in davits, boats and other things projecting from such vessels:

(*d*) for the removal or proper hanging or placing of anchors, spars, and other things, in or attached to vessels in any such port:

(*e*) for regulating vessels whilst taking-in or discharging ballast or cargo, or any particular kind of cargo, in any such port, and the stations to be occupied by vessels whilst so engaged:

(*f*) for keeping free passages of such width as may be deemed necessary within any such port, and along or near to the piers, jetties, landing-places, wharves, quays, docks, moorings, and other works in or adjoining to the same; and for marking out the spaces so to be kept free[1]:

(*g*) for regulating the anchoring, fastening, mooring and unmooring of vessels in any such port[1]:

(*h*) for regulating the moving and warping of all vessels within any such port and the use of warps therein:

(*i*) for regulating the use of the mooring buoys, chain and other moorings, in any such port:

(*j*) for fixing from time to time the rates to be paid for the use of such moorings when belonging to Government, or of any boat, hawser, or other thing belonging to Government:

(*k*) for licensing and regulating cargo and other boats, and catamarans plying for hire in any such port:

(*l*) for regulating the use of fires and lights within any such port:

(*m*) for enforcing and regulating the use of signal-lights by vessels at night in any such port:

(*n*) for regulating the number of the crew which must be on board any vessel afloat within the limits of any such port:

(*o*) for fixing the limits within which vessels shall be prohibited from leaving on board any quantity of gunpowder in excess of such quantity as the Lieutenant-Governor prescribes in this behalf.[2]—[Indian Ports Act, 1875—Act XII of 1875, s. 7.]

Power to make.

328*b*. Whereas it is expedient to enable the Government of Madras, with the sanction of the Governor General of India in Council, to make port-rules for other purposes besides those that are provided for in section 7 of Act XXII of 1855 (*An Act for the regulation of Ports and Port-dues*):[3] It is enacted as follows.

[1] All regulations under the provision of the Indian Ports Act, 1875, with regard to buoys and moorings, shall extend to the buoys and moorings laid down and belonging to the Commissioner of the Port of Calcutta. (Ben: Act V of 1870, s. 81).

For rules under this section see *Calcutta Gazette*, 4th August 1875, p. 981; 1st September 1875, p. 1105; 15th September 1875, p. 1149.

[2] Repealed by Indian Ports Act, 1875.

Section 7 of Act XXII of 1865 shall be read as if it contained the following additional clauses:— *Power to make Port Rules.*

Additional clauses inserted in s. 7 of Act XXII of 1865.

"XIV, for regulating the mode in which packets, letters, cargo, and passengers may be conveyed from the shore to vessels and from vessels to the shore;

"XV, for regulating the action to be taken by masters or other persons in charge of vessels, in cases in which disease or sickness exists on board such vessels, and in the disposal of dead bodies in such port;

"XVI, for providing that special reports shall be furnished in certain cases by masters or persons in charge of vessels, for regulating the officers to whom, and the mode in which, such reports shall be furnished, and for directing the personal attendance of such masters of vessels, or other persons in charge of the same, at the office of the conservator of such port or elsewhere;

"XVII, for regulating the use of flags, buoys, and day-signals;

"XVIII, for regulating the description of knives which may be carried by seamen when on shore;

"XIX, for all other purposes conducive to the safety of the shipping in such port, and of life and property therein."

Provided that no port-rule made by the Government of Madras for any of the purposes mentioned in the aforesaid additional clauses shall have effect until the same shall have been published for two months in the *Fort St. George Gazette.*—[Port Rules—Mad. Act II of 1872, s. 1.] *Proviso.*

328*c*. With the previous sanction of Local Government, the Commissioners may from time to time make rules consistent with this Act and with the Indian Ports Act, 1875, for any of the following purposes (that is to say)— *Power to make rules.*

(*a*) for regulating, declaring and defining the wharves, quays, stages, jetties and piers on and from which goods shall be landed from and shipped in vessels within the port;

(*b*) for the safe and convenient use of such wharves, quays, stages, jetties, piers and of landing-places, tramways, warehouses, sheds and other works in and adjoining the same;

(*c*) for regulating the reception and removal of goods within and from the premises of the Commissioners, and for declaring the procedure to be followed in taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged;

(*d*) for the mode of payment of tolls, charges, dues and rates levied under this Act;

(*e*) for providing water for ships and for licensing and regulating water-boats within the port;

(*f*) for the removal of wrecks from the port or the river and keeping clean the port, the river, the bank of the river and the works of

Power to make Port Rules.

the Commissioners, and for preventing filth or rubbish being thrown therein or thereon.—[Rangoon Port Commissioners' Act, 1879—Act XV of 1879, s. 16.]

Power to extend this Act.

328*d*. With the previous sanction of the Governor-General in Council, the Local Government may from time to time, by notification in the official Gazette,

(*a*) extend[1] this Act to any port or to any part of any navigable river or channel leading thereto in which this Act is not in force.

Power to extend specially sections 38, 39, 40 and 41.

(*b*) extend specially the provisions of any of the following sections (namely), thirty-eight, thirty-nine, forty and forty-one, to any port or to any part of any such river or channel to which such provisions have not been so extended,

Power to withdraw this Act.

(*c*) withdraw this Act from any port or any part thereof in which it is for the time being in force:

Provided that every notification under clause (*a*) or clause (*b*) of this section may define the limits of the port, river or channel to which it refers, and that such limits may extend to high-water-mark.

Such limits may include any piers, jetties, landing-places, wharves, quays, docks and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance and good government of such port, river or channel, whether within or without high-water-mark, and (subject to any rights of private property therein) any portion of the shore or bank within fifty yards of such line.

EXPLANATION.—In this section 'high-water-mark' means the highest point reached by ordinary spring-tides at any season of the year.—[Indian Ports Act, 1875—Act XII of 1875, s. 5.]

Rules for Safety of Shipping in Port, &c.

Rules for the Safety of Shipping and the Preservation of Ports.

Injuring buoys, &c.

328*e*. No person shall, without lawful excuse, lift, injure, loosen, or set adrift any buoy, beacon, or mooring, fixed or laid down by, or by the authority of, the Local Government in any port subject to this Act.

Whoever offends against the provisions of this section shall, for every such offence, be liable, in addition to the payment of the amount of damage done, to fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to two years.—[Indian Ports Act—1875, Act XII of 1875, s. 20.]

Wilfully loosening vessel from moorings.

328*f*. Whoever wilfully and without lawful excuse loosens or removes from her moorings any vessel within any such port without leave or authority from the owner or master of such vessel, shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for

[1] Local Governments have with the like sanction power to alter the limits of any port and to declare the precise extent of such limits.—Indian Ports Act—Act XII of 1875, s. 6.

a term which may extend to six months.—[Indian Ports Act, 1875—Act XII of 1875, s. 21.] *Rules for Safety of Shipping in Ports &c.*

328*g*. No ballast or rubbish, and no other thing likely to form a bank or shoal, or to be detrimental to navigation, shall without lawful excuse, be cast or thrown into any such port, or into or upon any place on shore, from which the same is liable to be washed into any such port, either by ordinary or high tides, or by storms or land-floods. *Improperly discharging ballast.*

Whoever by himself or another so casts or throws the same, and the master of any vessel from which the same is cast or thrown, shall be punished with fine which may extend to five hundred rupees over and above any expenses which may be incurred in removing the same. If after receiving notice from the conservator of the port to desist casting or throwing any such ballast or other thing, any master continues so to cast or throw it, he shall also be liable to simple imprisonment for a term which may extend to two months.

Nothing in this section applies to any case in which such ballast or other thing is cast or thrown into any such port with the consent in writing of the conservator, or within any limits within which such act may be authorised by the Local Government.—[Indian Ports Act, 1875—Act XII of 1875, s. 22.]

328*h*. The provisions contained in sections eleven and twenty-two[1] shall be applicable to all ports heretofore or hereafter declared by the Local Government to be ports for the shipment and landing of goods, but not otherwise subject to this Act, and may be enforced by any magistrate to whose ordinary jurisdiction any such port is subject. *Application of sections 11 and 22.*

Any penalties imposed by him, and any expenses incurred by his order under the said provisions, shall be recoverable respectively in the manner provided in sections sixty-six and sixty-eight.

In any of the said ports for the shipment and landing of goods the consent referred to in section twenty-two may be given by the principal officer of Customs at such port or by any other officer appointed in that behalf by the Local Government.—[Indian Ports Act, 1875—Act XII of 1875, s. 75.]

328*i*. If any person grave, bream, or smoke any vessel in any such port contrary to the directions of the conservator, or at any time or within any limits at or within which such act is prohibited by any order of the Local Government, such person, and also the master of such vessel, shall for every such offence be punished with fine which may extend to five hundred rupees.—[Indian Ports Act, 1875—Act XII of 1875, s. 23.] *Graving, &c., vessel within prohibited limits.*

328*j*. If any person boil or heat any pitch, tar, resin, dammer, turpentine, oil, or other such combustible matter on board any vessel within any such port or at any place within its limits where such act is prohibited by the Local Government, or contrary to the order or directions of the conservator, such person, and also the master of any vessel on board which such offence is committed, shall for every such offence be punished with fine which may *Boiling pitch, &c., on board vessel within prohibited limits.*

[1] See ss. 328 (*h*) and 328*c*.

Fine for breach of subsections of Act.

extend to two hundred rupees.—[Indian Ports Act, 1875—Act XII of 1875, s. 24.]

Drawing spirits by means of artificial light.

328*l*. If any person, by an unprotected artificial light, draws off spirits on board any vessel within any port subject to this Act, such person, and also the master of every such vessel, shall for every such offence be punished with fine which may extend to two hundred rupees.—[Indian Ports Act, 1875—Act XII of 1875, s. 25.]

Warps.

328*m*. Every master of a vessel in any port subject to this Act shall, when required so to do by the conservator, permit warps to be made fast to such vessel for the purpose of warping any other vessel in the port, and shall not allow any such warp to be let go until required so to do.

Any master offending against the provisions of this section shall be punished for every such offence with a fine which may extend to two hundred rupees.—[Indian Ports Act, 1875—Act XII of 1875, s. 26.]

Leaving out hawser, &c., at night.

328*n*. No master of any vessel shall cause or suffer any warp or hawser attached to his vessel to be left out in any port subject to this Act, after sunset, in such a manner as to endanger the safety of any boat or other vessel navigating in such port.

Any master offending against the provisions of this section shall be punished for every such offence with fine which may extend to two hundred rupees.—[Indian Ports Act, 1875—Act XII of 1875, s. 27.]

Regulations as to Gunpowder.

Regulations as to Gunpowder.

Place of deposit for gunpowder.

328*o*. The Local Government shall appoint a proper place[1] in which gunpowder in excess of the quantity allowed by rule under section seven, clause (*c*), for any ship in any port subject to this Act, shall be deposited; and shall also appoint an officer to receive the same.[2]—[Indian Ports Act, 1875—Act XII of 1875, s. 28.]

Government to fix time and manner of landing and shipping powder, &c.

328*p*. The Local Government may in such case by order fix the times at or within which, and the manner in which, such gunpowder shall be landed and deposited by any vessel inward bound, and also the times at or within which, and the manner in which, the same shall be taken on board any vessel from such place of deposit.[2]—[Indian Ports Act, 1875—Act XII of 1875, s. 29.]

Master to make declaration.

328*q*. The master of such vessel shall, upon such gunpowder being deposited, make and sign a declaration in writing that there is not then, to his knowledge or belief, on board such vessel any gunpowder exceeding the quantity allowed by the rule last aforesaid.—[Indian Ports Act, 1875—Act XII of 1875, s. 30.]

Officer to give receipt and to account for powder deposited.

328*r*. The officer with whom such gunpowder is deposited shall give a receipt for the same to the master or other person making the deposit, and he

[1] See s. 323*d*.

[2] See *Calcutta Gazette*, 1st September 1875, p. 1105.

shall be accountable to such master or other person for the re-delivery of the same.—[Indian Ports Act, 1875—Act XII of 1875, s. 31.] *Regulations as to Gunpowder.*

328r. If any vessel be prevented by stress of weather from landing or depositing such gunpowder, in excess of the quantity allowed as aforesaid, the master or owner of such vessel shall, so soon as the weather permits, land and deposit the same at the place so appointed as aforesaid, or shall forthwith give notice to the conservator, or other officer named for that purpose by any order of the Local Government, of his having such gunpowder on board, and shall obey his directions relating to the same.—[Indian Ports Act, 1875—Act XII of 1875, s. 32.] *If by stress of weather powder is not landed, notice to be given.*

328s. The Local Government may also, in respect to such port, by order, fix the times and places at which, and the manner in which, vessels outward bound, requiring to take in any gunpowder, exceeding the quantity above-mentioned, shall take in the same, whether such gunpowder has been previously landed from such vessel or not.[1]—[Indian Ports Act, 1875—Act XII of 1875, s. 33.] *Time, &c., for vessels outward bound to take in powder.*

328t. The master of any vessel having on board any gunpowder contrary to the provisions of this Act shall for every such offence be punished with fine which may extend to two hundred rupees; *Penalties for having prohibited powder on board.*

and all gunpowder on board any vessel contrary to the provisions of this Act shall be forfeited to Government and may be seized by the conservator, or by any collector of Customs, or by any Custom-house officer, or other officer authorised in that behalf by the Local Government, within the limits of their respective jurisdictions.—[Indian Ports Act, 1875—Act XII of 1875, s. 34.]

328u. Whoever without lawful excuse discharges any gun, musket, or other fire-arm in any port subject to this Act, or on or from the landing-places, piers, wharfs, or quays thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, shall, for every such offence, be punished with fine which may extend to fifty rupees.—[Indian Ports Act, 1875—Act XII of 1875, s. 35.] *Guns not to be discharged in port. Exception. Penalty.*

328v. The master of any vessel in which fire takes place while lying in any port, who wilfully omits to take order to extinguish such fire, shall be punished with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.—[Indian Ports Act, 1875—Act XII of 1875, s. 36.] *Penalty on master omitting to take order to extinguish fire.*

Regulations as to Petroleum.

Regulations as to Petroleum.

Dangerous Petroleum.

328w. No quantity of dangerous petroleum exceeding forty gallons shall be imported or transported, or kept by any one person or on the same premises, *Dangerous petroleum in quantities exceeding 40 gallons.*

[1] See *Calcutta Gazette*, 1st September 1875, p. 1105.

Regulations as to Petroleum.

except under, and in accordance with the conditions of, a license from the Local Government granted as next hereinafter provided.

Application for license to import, transport, or possess such petroleum.

Every application for such a license shall be in writing, and shall declare—

(*a*) the quantity of such petroleum which it is desired to import, transport, or possess, as the case may be;

(*b*) the purpose for which the applicant believes that such petroleum will be used; and

(*c*) that petroleum other than dangerous petroleum cannot be used for such purpose.

Power to grant license.

If the Local Government sees reason to believe that such petroleum will be used for such purpose, and that no petroleum other than dangerous petroleum can be used for such purpose, it may grant such license for the importation, transport, or possession (as the case may be) of such petroleum, absolutely or subject to such conditions as it thinks fit.—[Petroleum Act, 1881—Act VIII of 1881, s. 4.]

Dangerous petroleum in quantities not exceeding 40 gallons.

328*x*. No quantity of dangerous petroleum equal to or less than forty gallons shall be kept or transported without a license:

Provided that nothing in this section shall apply in any case when the quantity of such petroleum kept by any one person or on the same premises, or transported, does not exceed three gallons, and such petroleum is placed in separate glass, earthenware or metal vessels, each of which contains not more than a pint and is securely stopped.—[Petroleum Act, 1881—Act VIII of 1881, s. 5.]

Vessels containing dangerous petroleum to be marked.

328*y*. All dangerous petroleum—

(*a*) which is kept at any place after seven days from the date on which it is imported, or

(*b*) which is transported, or

(*c*) which is sold or exposed for sale,

shall be contained in vessels which shall bear an indelible mark or a label in conspicuous characters, stating the nature of the contents thereof.—[Petroleum Act, 1881—Act VIII of 1881, s. 6.]

Petroleum generally.

Petroleum generally.

Power to make rules as to the importation of petroleum.

328*z*. The Local Government may, from time to time, make rules consistent with this Act to regulate the importation of petroleum, and in particular—

(*a*) for ascertaining the quantity and description of any petroleum on board a ship;

(*b*) to provide for the delivery, by the master of a ship or the consignee of the cargo, of samples of petroleum before such petroleum is landed from such ship, and for the testing thereof;

(*c*) to determine the ports at which only petroleum may be imported; and

(d) to regulate the time and mode of, and the precautions to be taken on, landing or transhipping any petroleum. *Petroleum generally.*

In this section—

"ship" includes anything made for the conveyance by water of human beings or property; *"ship."*

"master" includes every person (except a pilot or harbour master) having for the time being the charge or control of a ship—[Petroleum Act, 1881—Act VIII of 1881, s. 7.] *"master."*

328 (*1a*). All rules made by the Local Government under this Act shall be published in the official Gazette, and shall, on the expiry of one month from the date of such publication, have the force of law: *Rules when to have force of law.*

Provided that no such rule shall be so published without the previous sanction of the Governor General in Council.—[Petroleum Act, 1881—Act VIII of 1881, s. 18.]

328 (*1b*). Any person who, in contravention of this Act or of any rules made hereunder, imports, possesses or transports any petroleum, and any person who otherwise contravenes any such rules or any condition contained in a license granted hereunder, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.—[Petroleum Act, 1881—Act VIII of 1881, s. 13.] *Penalty for illegal importation, &c., of petroleum.*

328 (*1c*). The criminal jurisdiction under this Act shall, in the towns of Calcutta, Madras, and Bombay, be exercised by a presidency magistrate, and elsewhere by a magistrate of the first class or (where specially empowered by the Local Government to try cases under this Act) a magistrate of the second class.—[Petroleum Act—Act VIII of 1881, s. 17.] *Jurisdiction.*

Special Rules for Safety of Shipping.

Special Rules for Safety of Shipping.

328 (*1d*). No vessel of the burden of two hundred tons or upwards shall be moved in any port to which this section has been specially extended without having a pilot, harbour master, or assistant of the master attendant or harbour master on board; and no vessel of any burden less than two hundred tons and exceeding one hundred tons shall be moved in any such port without having on board a pilot, harbour master, or assistant of the master attendant or harbour master, unless authority in writing so to do has been obtained from the conservator or some officer empowered by him to give such authority. *Vessels in certain cases not to be moved without having a pilot, &c., or permission of harbour master.*

If any vessel, except in case of urgent necessity, be moved contrary to the provisions of this section, the master of such vessel shall for every such offence be punished with fine which may extend to two hundred rupees, unless upon application to the proper officer the master be unable to procure a pilot, harbour master, or assistant of the master attendant or harbour master to go on board the said vessel. [Nothing in this section shall apply to native vessels when they are moved in the Port of Bombay.

Special Rules for Safety of Shipping.

Amendment of section 38 of Act XII of 1875 as to native vessels in Port of Bombay.

If any question arises as to whether any vessel is a native vessel within the meaning of this section, the decision thereon of such authority as the Governor of Bombay in Council may, from time to time, appoint in this behalf shall be conclusive.] [1]—[Indian Ports Act, 1875, Act XII of 1875, s. 38.]

Of Port Officers, their Powers and Duties.

Powers and Duties of Port Officers.

Appointment of conservator.

328 (*1e*). The Local Government shall appoint some officer or body of persons to be conservator of every port subject to this Act, and may suspend or remove such officer or body.

Subject to any direction by the Local Government to the contrary—

(*a*) in ports where there is a master attendant, such master attendant shall be the conservator:

(*b*) in ports where there is no master attendant, but where there is a harbour master, such harbour master shall be the conservator.

Where the harbour master is not conservator, the harbour master and his assistants shall be subordinate to, and subject to the control of, the conservator.

The conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint. —[Indian Ports Act, 1875—Act XII of 1875, s. 8.]

Conservator empowered to give directions for certain specified purposes.

Penalty for disobedience to conservator's orders.

328 (*1f*). The conservator of any port subject to this Act may, in respect of any vessel within such port, give directions for carrying into effect any rule for the time being in force therein.

Whoever wilfully, and without lawful excuse, refuses or neglects to obey any lawful direction of such conservator, after notice thereof has been given to him, shall, for every such offence, be punished with fine which may extend to one hundred rupees, and with a further fine which may extend to one hundred rupees for every day on which he wilfully continues to disobey such direction:

Expenses caused thereby to be paid by offender.

and, in case of such refusal or neglect, the said conservator may do, or cause to be done, all acts necessary for the purpose of carrying such direction into execution, and may hire and employ proper persons for that purpose; and all reasonable expenses incurred in doing such acts shall be paid by the person so offending.

Service of written notice.

Any written notice of a direction given under this Act, left for the master of any vessel with any person employed on board thereof, or affixed on a conspicuous place on board of such vessel, shall, for the purposes of this Act, be deemed to have been given to the master thereof.—[Indian Ports Act, 1857—Act XII of 1875, s. 9.]

Power to cut warps, ropes, &c.

328 (*1g*). The conservator of any such port may, in case of urgent necessity, cut, or cause to be cut, any warp, rope, cable or hawser, endangering the

[1] Act XVII of 1882, s. 2.

safety of any vessel in such port, or at or near to the entrance thereof. —[Indian Ports Act, 1875—Act XII of 1875, s. 10.]

Powers and duties of Port Officers.

328 (*H*). The conservator may remove, or cause to be removed, any timber, or obstruction, raft, or other thing floating or being in any part of any such port, which obstructs or impedes the free navigation thereof; or anything which obstructs or impedes the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring, or other work, on any part of the shore or bank which has been declared to be within the limits of such port, and is not private property;

Power to remove floating timber, &c. obstructing navigation or on shore within limits of port.

and the owner of any such timber or raft or other thing shall be liable to pay the reasonable expenses of such removal;

Expenses of removal.

and if such owner or any other person has without lawful excuse caused any such obstruction or impediment, or causes any public nuisance affecting or likely to affect such navigation, he shall also be punished with fine which may extend to one hundred rupees.

Penalties for causing obstruction or public nuisance.

And the conservator or any magistrate having jurisdiction over the offence may cause such nuisance to be abated.—[Indian Ports Act, 1875—Act XII of 1875, s. 11.]

328 (*I*). If the owner of any such timber or raft, or the person who has caused any such obstruction, impediment, or public nuisance as is mentioned in section eleven, neglects to pay the expense of the removal thereof within one week after demand, or within fourteen days after such removal has been notified in the official Gazette, or in such other manner as the Local Government by general or special order directs, such expenses may be recovered in the same manner as any fine under this Act;

Recovery of expenses of removal.

and the conservator may cause such timber, raft, or other thing, or the materials of any nuisance or obstruction so removed, or so much thereof as may be necessary, to be sold by public auction;

Power to sell timber, &c.

and may retain all the expenses of such removal and sale out of the proceeds of such sale; and shall pay the surplus of such proceeds, or deliver so much of the said timber or other materials as may remain unsold, to the person entitled to receive the same;

Proceeds how dealt with.

and, if no such person appear, shall cause the same to be kept and deposited in such manner as the Local Government directs;

and may, if necessary, from time to time, realise the expenses of keeping the same together with the expenses of such sale, by a further sale of so much of the said timber or other materials as may remain unsold.—[Indian Ports Act, 1875—Act XII of 1875, s. 12.]

328 (*J*). If any obstruction or impediment to the navigation of any port subject to this Act has been lawfully made, or has become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the conservator shall report the same for the information of the Local Government, and shall, with the sanction of such Government, cause the same to be

Removal of obstructions lawfully made.

Powers and duties of Port Officers.

removed or altered, making to the person suffering damage by such removal or alteration reasonable compensation for the same.

Compensation how determined.

Every [dispute arising concerning such compensation shall be determined according to the law relating to like disputes in the case of land required for public purposes.—[Indian Ports Act, 1875—Act XII of 1875, s. 13.]

Notice to conservator, if vessel foals.

328 (*Ik*). If any vessel hook or get foul of any of the buoys or moorings laid down by or by the authority of the Local Government in any such port, the master of such vessel shall not, nor shall any other person except in the case of emergency, lift such buoy or mooring for the purpose of unhooking or getting clear from the same without the assistance of the conservator;

and the conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel;

Expense of clearing vessel.

and the master of such vessel shall, upon demand, pay such reasonable expense as may be incurred in clearing the same.

Penalty.

Any master offending against the provisions of this section shall, for every such offence, be punished with fine which may extend to one hundred rupees.—[Indian Ports Act, 1875—Act XII of 1875, s. 14.]

Power to raise wreck, &c., impeding navigation within the limits.

328 (*Il*). If any vessel be wrecked, stranded, or sunk in any such port, so as to impede, or be likely to impede the navigation thereof, the conservator may cause the same to be raised, removed, or destroyed[1];

Expense how recoverable.

and may recover the same on behalf of the Local Government in the manner provided by section forty-four.[2]—[Indian Ports Act, 1875—Act XII of 1875, s. 15.]

Power to board vessels.

328 (*Im*). The conservator or any of his assistants may, whenever he suspects that any offence has been, or is about to be, committed contrary to this Act, or whenever it is necessary for him so to do in the discharge of any duty hereby imposed upon him;

and the collector of Customs or other officer appointed to collect any port dues or other charges payable in respect of any vessel under this Act may, whenever it is necessary so to do, for the performance of any duty hereby imposed upon such collector or other officer, either alone or with any other person, board any vessel, or enter any building or place within the limits of any port subject to this Act. If the master of such vessel or any person in possession or occupation of any such building or place without lawful excuse refuse to allow any officer or other person to board or enter such vessel, building, or place for the performance of any duty imposed upon him by this Act, he shall for every such offence be punished with fine which may extend to two hundred rupees.—[Indian Ports Act, 1875—Act XII of 1875, s. 16.]

Penalty on hinderance.

Power to require crews to prevent or extinguish fire.

328 (*In*). For the purpose of preventing or extinguishing fire in any port subject to this Act, the conservator may require the master of any ship

[1] Disputes concerning the amount due under s. 15 are to be determined by a magistrate upon application by either of the disputing parties—s. 76, Act XII of 1875.

[2] Section 44, Act XII of 1875, is repealed by Act VII of 1880, s. 7.

within the port to place at his disposal such number as he requires, not exceeding three-fourths, of the crew then under the orders of such master.

Powers and Duties of Port Officers.

Any master refusing or neglecting to comply with such requisition shall be punished with a fine which may extend to five hundred rupees, and any seaman then under his orders who, after being directed by the master to obey the conservator's orders for the purpose aforesaid, refuses to obey such orders shall be punished with fine which may extend to twenty-five rupees.—[Indian Ports Act, 1875—Act XII of 1875, s. 17.]

Power of conservator may be exercised by harbour master.

328 (*1o*). All acts, orders, or directions by this Act authorised to be done or given by any conservator may, subject to his control, be done or given by any harbour master or any assistant of such conservator or harbour master,

and any person hereby authorised to do any act may call to his aid such assistance as may be necessary.—[Indian Ports Act, 1875—Act XII of 1875, s. 18.]

As to the health officer's power, see s. 232f.

Indemnity to Government against default of harbour master, &c.

328 (*1p*). The Government shall not be answerable for any act or default of any master attendant, harbour master, or other conservator of any port subject to this Act, or of any pilot, or of any deputy or assistant of any of the officers above mentioned; or of any person acting under the authority or direction of any such officer or assistant, done within the limits of such port;

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other things belonging to Government, within the said limits, which may be used by such vessel:

Proviso.

Provided that nothing in this section shall protect the Secretary of State for India in Council from a suit in respect of any act done by or under the express order or sanction of Government.—[Indian Ports Act, 1875—Act XII of 1875, s. 19.]

Unauthorised person not to search for lost stores.

328 (*1q*). No person, unless duly authorised by the conservator, shall creep or sweep in any such port for anchors, cables or other stores lost or supposed to be lost therein.

Whoever offends against the provisions of this section shall be punished with fine which may extend to one hundred rupees.—[Indian Ports Act, 1875—Act XII of 1875, s. 40.]

Removing stones, &c., or injuring shores of port prohibited.

328 (*1r*). No person shall, without the permission of the conservator, remove or carry away any rock, stones, shingle, gravel, or soil, or any artificial protection from any part of the bank or shore of any such port;

and no person shall sink or bury in any part of such bank or shore, whether the same be public or private property, any mooring-post, anchor or any other thing, or do any other thing which is likely to injure or to be used so as to injure such bank or shore, except with the permission of the said conservator, and with the aid or under the inspection of such person (if any) as he may appoint to take part in, or overlook the performance of, such work.

Powers and Duties of Port Officers.

Whoever offends against the provisions of this section shall for every such offence be punished with fine which may extend to one hundred rupees, and shall pay the expenses of repairing the injury (if any) done by him to such bank or shore.—[Indian Ports Act, 1875—Act XII of 1875, s. 41.]

Power to Remove or Destroy Obstructions in Fairways.

Obstructions in Fairways.

Local Government empowered to remove or destroy obstruction in fairway.

328 (*1s*). Whenever, in any fairway leading to any port in British India, any vessel is sunk, stranded, or abandoned, or any fishing-stake, timber, or other thing is placed or left, the Local Government of the part of British India in which such port is situate may, if in its opinion such thing is, or is likely to become, an obstruction or danger to navigation—

(*a*) cause such thing or any part thereof to be removed; or

(*b*) if such thing is of such a description or so situate that, in the opinion of the Local Government, it is not worth removing, cause the same or any part thereof to be destroyed.—[The Obstructions in Fairways Act, 1881[1]—Act XVI of 1881, s. 2.]

Government entitled to expenses incurred in removing obstruction.

328 (*1t*). Whenever anything is removed under section two, the Government shall be entitled to receive a reasonable sum, having regard to all the circumstances of the case, for the expenses incurred in respect of such removal.

Dispute concerning such expenses.

Any dispute arising concerning the amount due under this section, in respect of anything so removed, shall be decided by the magistrate of the district or presidency magistrate having jurisdiction at the place where such thing is, upon application to him for that purpose by either of the disputing parties, and such decision shall be final.—[The Obstructions in Fairways Act, 1881—Act XVI of 1881, s. 3.]

Notice of removal to be given by Local Government.

328 (*1u*). The Local Government shall, whenever anything is removed under section two, publish in the local official Gazette a notification containing a description of such thing, and the time at which and the place from which the same was so removed.—[The Obstructions in Fairways Act, 1881—Act XVI of 1881, s. 4.]

Things removed may, in certain cases, be sold.

328 (*1v*). If after publishing such notification such thing is unclaimed, or

if the person claiming the same fails to pay the amount due for the said expenses and any customs duties or other charges properly incurred by the Local Government in respect thereof,

the Local Government may sell such thing by public auction, if it is of a perishable nature, forthwith, and if it is not of a perishable nature, at any time not less than six months after publishing such notification as aforesaid.—[The Obstructions in Fairways Act, 1881—Act XVI of 1881, s. 5.]

328 (*1w*). On realising the proceeds of such sale, the amount due for expenses and charges as aforesaid, together with the expenses of the sale, shall

[1] Nothing in this Act shall apply to vessels belonging to Her Majesty or hired by Her Majesty or by the Secretary of State for India in Council.—s. 1, Act XVI of 1881.

be deducted therefrom, and the surplus (if any) shall be paid to the owner of the thing sold; or, if no such person appear and claim such surplus, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

Obstructions in Fairways.

Proceeds how applied.

Provided that he makes the claim within one year from the date of the sale.—[The Obstructions in Fairways Act, 1881—Act XVI of 1881, s. 6.]

328 (*1x*). For the purposes of this Act the term "vessel" shall be deemed to include also every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores, or ballast of a vessel; and any proceeds arising from the sale of a vessel, and of the cargo thereof, or of any other property recovered therefrom, shall be regarded as a common fund.—[The Obstructions in Fairways Act, 1881—Act XVI of 1881, s. 7.]

"Vessel" to include tackle, cargo, &c.

328 (*1y*). The Governor General in Council may from time to time, by notification in the *Gazette of India*, make rules to regulate or prohibit in any fairway leading to a port in British India, the placing of fishing-stakes, the casting or throwing of ballast, rubbish, or any other thing likely to give rise to a bank or shoal; or the doing of any other act which will, in his opinion, cause, or be likely to cause, obstruction or danger to navigation.—[The Obstructions in Fairways Act, 1881—Act XVI of 1881, s. 8.]

Power to make rules to regulate and prohibit the placing of obstructions in fairways.

328 (*1z*). Whoever is guilty of any act or omission in contravention of the rules made under section eight may be tried for such offence in any district or presidency-town in which he is found, and shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.—[The Obstructions in Fairways Act, 1881—Act XVI of 1881, s. 9.]

Penalty for breach of such rules.

328 (*2a*). Whenever the maintenance or creation of an obstruction in any fairway has become lawful by long usage or otherwise, and such obstruction is removed or destroyed under section two, or its creation is regulated or prohibited under section eight, any person having a right to maintain or create such obstruction shall be entitled to receive from the Secretary of State for India in Council reasonable compensation for any damage caused to him by such removal, destruction, regulation, or prohibition.

Compensation payable in certain cases for damage caused under this Act.

Every dispute arising concerning the right to such compensation, or the amount thereof, shall be determined according to the law for the time being in force relating to like disputes in the case of land needed for public purposes and not otherwise; and for the purposes of such law the fairway from or in which such obstruction was removed or destroyed, or in which its creation was regulated or prohibited, shall be deemed to be a part of the presidency-town or district in which the port to which such fairway leads is situate.—[The Obstructions in Fairways Act, 1881—Act XVI of 1881, s. 10.]

328 (*2b*). Whenever any obstruction in a fairway leading to a port in British India has been removed or destroyed, or whenever the creation of any such obstruction has been regulated or prohibited, by an order of the Governor General in Council or a Local Government, previous to the passing of this

Certain action of the Government previous to passing of this Act to be deemed to have been taken hereunder.

Obstructions in Fairways.

Act, such removal, destruction, regulation, or prohibition shall be deemed to have been effected under this Act.—[The Obstructions in Fairways Act, 1881—Act XVI of 1881, s. 11.]

Saving of other powers.

328 (*2c*). Nothing herein contained shall be deemed to prevent the exercise by the Government of any other powers possessed by it in this behalf.—[The Obstructions in Fairways Act, 1881—Act XVI of 1881, s. 12.]

Power of Port Commissioners to raise wrecks.

Commissioners may take wreck, &c., and charge reasonable expenses.

Power of Port Commissioners to raise wrecks.

328 (*2d*). If any vessel with or without cargo shall be wrecked, stranded, or sunk within the limits of the said port,[1] the commissioners may in any case cause the same to be raised, removed, or destroyed; or they may call on the owner, master, or consignee thereof to cause the same to be raised, removed, or destroyed; and if the said owner, master, or consignee, when called upon, shall refuse or neglect forthwith so to do, the commissioners in that case also may cause the same to be raised, removed, or destroyed.

Unless all expenses in or towards executing any works undertaken by the commissioners under this section shall be repaid within one month after the completion thereof, the commissioners may recover the same in the manner provided by the next succeeding section.

The amount claimable and due under this section shall include all monies expended, reasonable remuneration for labour and for the use of the property and appliances of the commissioners, and a further sum of twenty per cent. on the total amount so due in respect of monies expended and of remuneration.

If any dispute shall arise concerning the amount due to the commissioners under this section, the same shall be determined by a magistrate, who, upon application made to him for that purpose, shall have power to determine such amount, and to award such costs as he shall think reasonable to be added to or deducted from the amount due under this section as he shall direct, and whose decision shall be final.—[Calcutta Port Commissioners, Act—Ben: Act III of 1872, s. 3.]

Sale of property if unclaimed, or if expenses unpaid.

328 (*2e*). If the property recovered under the next preceding section is unclaimed, or if the person claiming the same refuses or neglects to pay the amount due to the commissioners under the next preceding section in respect thereof, such property, if of a perishable nature, may be sold forthwith, and if not of a perishable nature may be detained by the commissioners at the risk

[1] It shall be lawful for the Lieutenant-Governor of Bengal, by an order published in the *Calcutta Gazette*, to define the limits of the port for the purposes of this Act, and from time to time, by any notice to be in like manner published, to alter, vary, or revoke the same or any part thereof, and by the same or any other order to be in like manner published to define other limits of the port, and the limits so defined in any such order shall, while such order is in force, be for the purposes of this Act the limits of the port.

Provided, however, that, until such order shall be published, the limits of the port as for the time being defined by a declaration made by the Government of Bengal under the provisions of the Indian Ports Act, 1875, passed by the Legislative Council of India, shall, for the purposes of this Act, be the limits of the port.—[Section 78, Bengal Act V of 1870.]

and expense of all parties interested therein, and may be sold at any period not less than two months after the recovery thereof, by public auction, and after the realisation of the proceeds thereof the amount due to the commissioners as aforesaid shall be deducted therefrom and paid to the commissioners, and the balance shall be paid to the person entitled to recover on his applying for the same; provided that such application be made within one year from the sale of such property, or good reason to the satisfaction of the commissioners be shown why such application was not made.

Power of Port Commissioners to raise Wrecks.

Otherwise such balance shall be held by the commissioners upon trust for the purposes of the said Act V of 1870.—[Calcutta Port Commissioners Act—Ben: Act III of 1872, s. 4.]

Prevention of Damage to Piers, Jetties, and Wharves.

Prevention of Damage to Piers, &c.

Vessels fouling pier.

328 (2*f*). If any ship or vessel shall foul the pier and thereby occasion damage thereto, the amount of such damage shall be ascertained forthwith, or as soon as conveniently may be, and upon the amount of such damage being proved before a magistrate to his satisfaction, it shall be lawful for such magistrate to make an order upon the master or owners of such ship or vessel for the payment of such amount, and if the same be not paid within twenty-four hours after demand upon, or notice of such order to, the owners or agents, or to the master or other officer of such ship or vessel (or forthwith if the magistrate shall so order), it shall be lawful for the conservator of the port of Madras to levy the amount thereof by distraining in manner hereinafter provided, or if necessary, by seizure and sale of such vessel.—[Madras Pier Act, 1863—Mad: Act V of 1863, s. 9.]

Penalty for non-payment of dues, &c.

328 (2*g*). If any vessel or the master or owners of any vessel shall become liable under the provisions of this Act to pay any sum of money either by way of fine or penalty, or for the purpose of making good any damage, and the same shall not be paid within twenty-four hours after demand or after notice of such liability (or forthwith if the magistrate before whom the complaint for the recovery of such fine, penalty, or amount of damage shall be made shall so order), then and in every such case it shall be lawful for the conservator of the port of Madras to distrain or cause to be distrained any goods or merchandise, to whomsoever the same may belong on board such vessel, and any tackle, apparel, or furniture belonging to such vessel, and to remove the same to some convenient place, leaving on board such vessel notice in writing of such distress, and of the cause thereof, and of the place of removal, and if such sum of money, together with the cost of such distress and removal, be not paid within three days after the seizure, exclusive of the day of seizure, the said conservator may cause the goods, merchandise, tackle, apparel, and furniture so seized to be sold, and out of the proceeds of such sale shall pay to Government the said sum which the said vessel or the owners thereof were liable to pay under the provisions of this Act, together with the reasonable

Prevention of Damage to Pier, &c.

costs of such seizure, detention and sale, rendering to the owner or agent or master or other person having the command of such vessel, the overplus, if any, on demand.—[Madras Pier Act, 1863—Mad. Act V of 1863, s. 10.]

Recovery of damages for fouling pier by drift.

328 (*2h*). Whenever any drift shall foul the pier and thereby cause damage thereto, it shall be lawful for the conservator of the port of Madras to seize such drift; and the amount of such damage shall be ascertained forthwith, or as soon as conveniently may be;

and, upon the amount of such damage being proved before a magistrate to his satisfaction, it shall be lawful for such magistrate to make an order upon the owner of such drift for the payment of such amount;

and if the same be not paid within twenty-four hours after demand upon, or notice of such order to, the owner, it shall be lawful for the conservator of the port of Madras to sell the whole or any portion of such drift in the manner prescribed by section ten of the said Act;

and out of the proceeds of such sale he shall pay to Government the sum ordered to be paid by the magistrate, together with the reasonable costs of such seizure, detention, and sale, rendering to the owner of such drift the surplus, if any, on demand.—[Madras Pier Amendment Act—Mad. Act VII of 1871, s. 2.]

Sale of drift and payment of sale proceeds.

328 (*2i*). When the owner of such drift is unknown or cannot be ascertained, it shall be lawful for the magistrate to make a general order for the payment of the ascertained amount of damage; and a copy of such order shall be posted up in a conspicuous place at the Custom-house; and at the expiration of twenty-four hours after such copy has been posted up, it shall be lawful for the conservator of the port of Madras to sell such drift, and to pay over to Government the proceeds of such sale.

Any surplus which may exist after payment of the amount ordered by the magistrate, and of the reasonable costs of seizure, detention, and sale, and which may remain unclaimed by the owner after twelve months from the date of sale, shall be credited to the Port Fund.—[Madras Pier Amendment Act—Mad. Act VII of 1871, s. 3.]

Procedure in case of drift owned by several persons.

328 (*2j*). When any drift which has fouled and damaged the Madras pier is the property of several owners, it shall be lawful for the magistrate to make a general order upon all such owners for payment of the ascertained amount of damage;

and thereupon it shall be lawful for the conservator of the port of Madras to sell the whole or any part of such drift, and to make such payment to Government as is prescribed in section two of this Act, and to divide the surplus among the several owners of such drift by paying to each a sum which shall bear the same proportion to the whole surplus, as the portion of such drift belonging to each such owner shall bear to the entire value of the whole drift.—[Madras Pier Amendment Act—Mad. Act VII of 1871, s. 4.]

Liability of owner of a small part of

328 (*2k*). Where any such general order has been made under the preceding section, the owner or owners of any part of such drift which has remained

unsold shall be liable to contribute to the owner or owners of such drift as has been sold, by paying to him or them a sum which shall bear the same proportion to the whole amount paid over to Government as the value of the drift unsold bears to the value of the whole drift liable to be sold.—[Madras Pier Amendment Act—Mad: Act VII of 1871, s. 5.]

Prevention of Damage to Property.

Sum to pay to owner of part sold.

328 (2*l*). It shall be lawful for the magistrate, by whom the amount of damage is ascertained, to certify, by an order under his hand, what amount of contribution is payable by and to each of the several owners of such drift, and the amount so certified shall be recoverable by a civil suit; and such order shall be conclusive evidence of the liability to pay the amount so certified.—[Madras Pier Amendment Act—Mad: Act VII of 1871, s. 6.]

Magistrate's certificate as to amount payable by and to each owner of drift.

328 (2*m*). In case any damage or mischief shall be done to any wharves, quays, jetties, piers, or works constructed or acquired by the commissioners under the provisions of this Act, by any vessel, through the negligence of any person having the guidance or command thereof, or of any of the mariners or persons employed therein, it shall be lawful for any magistrate of the town of Calcutta, on the application of the commissioners, to issue a summons to the master of, or agent for, such vessel requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief.

Compensation for damage to property of commissioners.

If at the time appointed in the summons, and whether the person summoned shall appear or not, it shall be made out to the satisfaction of the magistrate that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees, it shall be lawful for the magistrate to issue his warrant of distress under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the commissioners out of the proceeds of the distress:

Provided that, if at the time of the damage or mischief the vessel was under the orders of a duly authorised officer belonging to the pilot service or the harbour master's or master attendant's department, the case shall not be cognizable by the magistrate under this section.—[Calcutta Port Improvement Act—Ben: Act V, of 1870, s. 76.]

328 (2*n*). In case any damage or mischief is done to any wharves, docks, quays, jetties, stages, piers, or works constructed or acquired by the commissioners under this Act, by any vessel, through the negligence of the master thereof or of any of the mariners or persons employed therein, any magistrate of the town of Rangoon may, on the application of the commissioners, and on declaration by them that payment for such damage or mischief has been refused or has not been made on demand, issue a summons to the master or owner of such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief.

Compensation for damage to property of commissioners.

Prevention of damage to Pier, &c.

If, at the time appointed in the summons, and whether the person summoned appears or not, it is proved that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees, the magistrate may issue his warrant of distress, under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors, or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the commissioners out of the proceeds of the distress: provided that, if, at the time of the damage or mischief, the vessel was under the orders of a duly authorised officer belonging to the pilot service or the harbour master's or master attendant's department, the case shall not be cognizable by the magistrate under this section.—[Rangoon Port Commissioners Act, 1879—Act XV of 1879, s. 41.]

Port-dues and charges.

Port-dues on vessels entering.

328 (2a). In each of the ports mentioned in the first schedule hereto annexed, such port due not exceeding the amount specified for such port in the third column of the same schedule as the Local Government from time to time directs shall be levied on vessels entering the same port and described in the second column of the same schedule, but not oftener than the time fixed for such port in the 4th column of the same schedule.

Whenever the Local Government, with the previous sanction of the Governor General in Council, has declared or hereafter declares any port[1] to be subject to this Act, it may, with the like sanction, by the same or any subsequent declaration, further declare—

(a) the maximum amount of dues to be levied on vessels entering such port;

(b) the conditions and modifications under which such dues shall be levied[2]; and may also, from time to time, with the like sanction, vary such conditions and modifications; and such dues shall be levied accordingly.

All port-dues now leviable in any of the said ports shall continue to be so leviable until it is otherwise declared in exercise of the powers conferred by this section.

No port-dues or fees shall hereafter be levied in any port except under the authority of this Act.

No order increasing or imposing port-dues under this section shall take effect until the expiration of sixty days from the day on which such order has been published in the local official Gazette.

[1] *i. e.*, any other port.

[2] See as to False Point *Calcutta Gazette*, 20th September 1875, page 1231. As to Puri *ibid.*, 8th December 1875, page 1506.

THE FIRST SCHEDULE.

PART I.—BRITISH BURMA.[1]

Name of Port.	Vessels chargeable.	Rate of Port-dues.	Dues how often chargeable in respect of same Vessel.
Maulmain . . .	Sea-going vessels of ten tons and upwards, but less than twenty-five tons.	Not exceeding four annas per ton.	Once in sixty days.
	Sea-going vessels of twenty-five tons and upwards.	Not exceeding five annas six pie per ton.	Ditto.
Rangoon . . .	Sea-going vessels of ten tons and upwards.	Not exceeding six annas per ton.	Ditto.
Kyook Phyoo . .	Ditto . . .	Not exceeding four annas per ton.	Ditto.
Akyab . . .	Ditto . . .	Ditto . . .	Ditto.
Bassein . . .	Sea-going vessels of ten tons and upwards, but less than twenty-five tons.	Ditto . . .	Ditto.
	Sea-going vessels of twenty-five tons and upwards.	Not exceeding five annas six pie per ton.	Ditto.

PART II.—THE LOWER PROVINCES.

Name of Port.	Vessels chargeable.	Rate of Port-dues.	Dues how often chargeable in respect of same Vessel.
Chittagong . . .	Sea-going vessels of ten tons and upwards.	Not exceeding four and a half annas per ton.	Once in sixty days.
Port Canning . .	Sea-going vessels of twenty tons and upwards.	Not exceeding four annas per ton, provided that in the case of *dhonis* and country vessels employed in the coasting trade, the rate shall be one-half the rate chargeable in respect of other vessels.	Whenever the vessel enters the port, except in the case of *dhonis* and country vessels employed in the coasting trade, which shall not be chargeable with port-dues at the same port more than once in ninety days.

[1] As to Tavoy and Mergui, see *British Burma Gazette*, 28th August 1875, Part II, p. 163.

Port-dues and charges.

THE FIRST SCHEDULE—*continued.*

PART II.—THE LOWER PROVINCES—*continued.*

Name of Port.	Vessels chargeable.	Rate of Port-dues.	Due how often chargeable in respect of same Vessel.
Port Canning—*continued.*	Tug-steamers and river-steamers belonging to Port Canning.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and the 31st December in each year.
Calcutta . . .	Sea-going vessels of twenty tons and upwards.	Not exceeding four annas per ton; provided that in the case of *dhonis* and country vessels employed in the coasting trade, the rate shall be one-half the rate chargeable in respect of other vessels.	Whenever the vessel enters the port, except in the case of *dhonis* and country vessels employed in the coasting trade, which shall not be chargeable with port-dues at the same port more than once in sixty days.
	Tug-steamers and river-steamers.	Not exceeding four annas per ton.	Once between the 1st January and the 30th June, and once between the 1st July and 31st December in each year.
Cuttack Ports,—namely, Balasore, Chandbali, Laichhumpur, Chandbali, Subarnarekha, Dhámra and Sarthia.	Sea-going vessels of three hundred maunds and upwards.	Not exceeding six annas per hundred maunds.	Whenever the vessel enters the port.

PART III.—THE MADRAS PRESIDENCY.

Name of Port.	Vessels chargeable.	Rate of Port-dues.	Due how often chargeable in respect of same Vessel.
Madras[1] . . .	Sea-going vessels of fifteen tons and upwards.	Not exceeding eight annas per ton; provided that in the case of vessels employed in the coasting trade, not being steamers, the rates shall be one-half the rates chargeable in respect of other vessels.[2]	No coasting steamer having paid port-dues at any port shall be chargeable with port-dues again at the same or at any other port of the same group within thirty days.[2]

[1] Madras Port-dues Act, 1881—Act IV of 1881, s. 2.

[2] The provisions in the 4th column shall, so far as they are applicable, apply to the Port of Madras.—Madras Port-dues Act, 1881—Act IV of 1881, s. 3.

THE FIRST SCHEDULE—*continued.*

Port-dues and charges.

PART III.—THE MADRAS PRESIDENCY—*continued.*

Name of Port.	Vessels chargeable.	Rate of Port-dues.	Dues how often chargeable in respect of same Vessel.
Eastern Group—			
1. Ganjam	Sea-going vessels of fifteen tons and upwards.	Not exceeding three annas per ton; provided that in the case of vessels employed in the coasting trade not being steamers, the rates shall be one-half the rates chargeable in respect of other vessels; provided also that any steamer engaged in the coasting trade, when it enters any of the ports of the Eastern and Western Groups, shall pay the highest rate of port-dues leviable at any port of such group and an addition of half of such highest rate.	(b) No coasting vessel other than a coasting steamer shall be chargeable with port-dues at the same port more than once in sixty days. (c) No vessel other than a coasting vessel or a coasting steamer shall be chargeable with port-dues at the same port more than once in ninety days. In the above rules the expression "coasting vessel" means any vessel which at any port discharges cargo exclusively from, or takes in cargo exclusively for, any port on the Continent of India or in the Island of Ceylon.
2. Gopalpur	Sea-going vessels of 15 tons and upwards.	Ditto	
3. Calingapatam	Ditto	Ditto	
4. Bimlipatam	Ditto	Ditto	
5. Vizagapatam	Ditto	Ditto	
6. Coconada	Ditto	Ditto	
7. Coringa[1]			
8. Masulipatam	Ditto	Ditto	
9. Madras[2]	Ditto	Ditto	
10. Cuddalore	Ditto	Ditto	
11. Porto Novo	Ditto	Ditto	
12. Tranquebar	Ditto	Ditto	
13. Negapatam	Ditto	Ditto	
14. Nagore[1]			
15. Tuticorin	Ditto	Ditto	
Western Group—			
1. Mangalore	Ditto	Ditto	
2. Cannanore	Ditto	Ditto	
3. Tellicherry	Ditto	Ditto	
4. Calicut	Ditto	Ditto	
5. Beypore[1]			
6. Cochin	Ditto	Ditto	

[1] NOTE.—As regards the levy of port-dues, each of the following pairs of ports—(namely) Coconada and Coringa, Negapatam and Nagore, Calicut and Beypore—shall be treated as if it were only one port; every vessel in respect of which such dues have been charged and taken at one of any of the said pairs being exempted from the charge on entering the other of the same pair.

[2] Sec. 9 is repealed by Madras Port-dues Act, 1881—Act IV of 1881, s. 2. See s. 328 (2 g).

Port-dues and charges.

THE FIRST SCHEDULE—*continued.*

PART IV.—THE BOMBAY PRESIDENCY.

Name of Port.	Vessels chargeable.	Rate of Port-dues.	One how often chargeable in respect of same Vessel.
Western Group—			
Bombay.	Sea-going vessels of ten tons and upwards (except fishing boats).	Not exceeding four annas per ton for each class of vessels, as the Trustees incorporated under the Bombay Port Trust Act, 1879, may, from time to time, direct.[1]	Once in the same month.
	Tug-steamers, Ferry-steamers and River-steamers.	Not exceeding four annas per ton, and not less than two annas per ton, for each class of vessels, as the Trustees incorporated under the Bombay Port Trust Act, 1873, may direct.[2]	Once between the 1st January and the 30th June, and once between the 1st July and 31st December in each year.
Northern Group of Ports—			
1. Gogo	Sea-going vessels of ten tons and upwards (except fishing boats).	Not exceeding three annas per ton; provided that a coasting steamer whenever it enters any port shall be chargeable with the highest rate of port-dues leviable at any port of the group to which such port belongs and an addition of one-half of such highest rate.	Once in thirty days at the same port; provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
2. Bávliári	Ditto	Ditto	Ditto.
3. Khun	Ditto	Ditto	Ditto.
4. Tankária	Ditto	Ditto	Ditto.
5. Dehegám	Ditto	Ditto	Ditto.
6. Dehej	Ditto	Ditto	Ditto.
7. Broach	Ditto	Ditto	Ditto.
8. Bhagwa	Ditto	Ditto	Ditto.
9. Surat	Ditto	Ditto	Ditto.
10. Matwad	Ditto	Ditto	Ditto.

[1] See Act XI of 1883.

[2] It is no doubt intended from the recital to Act XI of 1883 that the rate of Port-dues for tug-steamers, &c., should be the same as the rates for sea-going vessels of ten tons and upwards, but the enacting part of Act XI of 1883 refers only to the first entry in the 3rd column of the 1st schedule, and that being the case the rate for tug-steamers must remain as it was before Act XI of 1883 came into force.

THE FIRST SCHEDULE—*continued.*

PART IV.—THE BOMBAY PRESIDENCY—*continued.*

Name of Port.	Vessels chargeable.	Rate of Port-dues.	Due how often chargeable in respect of same Vessel.
Southern Group of Ports—			
1. Bandora	Sea-going vessels of ten tons and upwards (except fishing-boats).	Not exceeding three annas per ton; provided that a coasting steamer whenever it enters any port shall be chargeable with the highest rate of port-dues leviable at any port of the group to which such port belongs, and an addition of one-half of such highest rate.	Once in thirty days at the same ports provided that no coasting vessel or coasting steamer having paid port-dues at any port shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
2. Versova	Ditto	Ditto	Ditto.
3. Manori	Ditto	Ditto	Ditto.
4. Utan	Ditto	Ditto	Ditto.
5. Bassein	Ditto	Ditto	Ditto.
6. Bhiwandi	Ditto	Ditto	Ditto.
7. Kallian	Ditto	Ditto	Ditto.
8. Tanna	Ditto	Ditto	Ditto.
9. Trombay	Ditto	Ditto	Ditto.
10. Panwel	Ditto	Ditto	Ditto.
11. Karanja	Ditto	Ditto	Ditto.
12. Rewas	Ditto	Ditto	Ditto.
13. Nagothna	Ditto	Ditto	Ditto.
14. Tiad	Ditto	Ditto	Ditto.
15. Alibag	Ditto	Ditto	Ditto.
16. Revdanda	Ditto	Ditto	Ditto.
17. Talkhari	Ditto	Ditto	Ditto.
18. Bankot	Ditto	Ditto	Ditto.
19. Kelsi	Ditto	Ditto	Ditto.
20. Harnai	Ditto	Ditto	Ditto.
21. Anjanwel	Ditto	Ditto	Ditto.
22. Borya	Ditto	Ditto	Ditto.
23. Jaygarh	Ditto	Ditto	Ditto.
24. Rutnagiri	Ditto	Ditto	Ditto.
25. Purnagarh	Ditto	Ditto	Ditto.
26. Yeshwantgarh	Ditto	Ditto	Ditto.
27. Viziadurg	Ditto	Ditto	Ditto.
28. Devgarh	Ditto	Ditto	Ditto.
29. Achara	Ditto	Ditto	Ditto.
30. Malwan	Ditto	Ditto	Ditto.
31. Nivti	Ditto	Ditto	Ditto.

Port-dues and charges.

THE FIRST SCHEDULE—*continued*

PART IV.—THE BOMBAY PRESIDENCY—*concluded.*

Name of Port.	Vessels chargeable.	Rate of Port-dues.	Due how often chargeable in respect of same Vessel.
Southern Group of Ports—concluded.			
32. Vengurla	Sea-going vessels of ten tons and upwards (except fishing boats).	Not exceeding three annas per ton; provided that a coasting steamer whenever it enters any port shall be chargeable with the highest rate of port-dues leviable at any port of the group to which such port belongs, and an addition of one-half of such highest rate.	Once in thirty days at the same port; provided that no coasting vessel or coasting steamer, having paid port-dues at any port, shall be chargeable with port-dues again at the same or any other port of the same group within thirty days.
33. Rori	Ditto	Ditto	Ditto.
34. Tirekhol	Ditto	Ditto	Ditto.
35. Karwar, including Baitkhol.	Ditto	Ditto	Ditto.
36. Chendya	Ditto	Ditto	Ditto.
37. Ankola	Ditto	Ditto	Ditto.
38. Gangawli	Ditto	Ditto	Ditto.
39. Tadri	Ditto	Ditto	Ditto.
40. Honawar	Ditto	Ditto	Ditto.
41. Shirali	Ditto	Ditto	Ditto.
42. Coomta	Ditto	Ditto	Ditto.
43. Murdeshwar	Ditto	Ditto	Ditto.
44. Bhatkal	Ditto	Ditto	Ditto.
Karachi	Ditto	Four annas per ton	Once in three months.
	Tug-steamers and river-steamers.	Ditto	Once between the 1st January and the 30th day of June, and once between the 1st July and the 31st December in each year.
Aden	Sea-going vessels of ten tons and upwards.	Three annas per ton	Once a month.

[Indian Ports Act, 1875—Act XII of 1875, s. 45 and Schedule I.]

Portdues and charges.

328 (*2p*). This Act[2] shall come into force as soon as the said harbour is, in the opinion of the Local Government, open for the use of sea-going vessels of fifteen tons and upwards, and the said Government has published, in the *Fort St. George Gazette*, a notification to that effect.—[Madras Port-dues Act, 1881—Act IV of 1881, s. 1.]

Commencement of Act IV of 1881.

328 (*2q*). Every such order[3] may direct that any of the port-dues or fees payable under the provisions of any Act authorising the levy, or requiring payment, of port-dues or fees from or in respect of vessels entering or leaving the said port, or being or lying therein, or using the said port, shall be received by the commissioners, and shall also specify the amount, if any, of charge to which the commissioners shall be liable in respect thereof.—[The Calcutta Port Improvement Act, 1870—Ben. Act V of 1870, s. 96.]

Port-dues may be made payable to commissioners.

328 (*2r*). The Local Government may, from time to time, exempt the vessels entering any port subject to this Act from the levy of port-dues and cancel such exemption, or it may from time to time vary the rate at which port-dues shall be levied in any such port, in such manner as, having regard to the receipts and charges on account of that port, it thinks expedient, by reducing or raising the dues, or any of them:[4]

Local Government may vary port-dues.

Provided that the rates shall not in any case exceed the amount authorised to be taken by this Act.—[Indian Ports Act, 1875,—Act XII of 1875, s. 46.]

Proviso.

328 (*2s*). If any vessel liable to the payment of port-dues is in any such port without proper marks on the stem and stern-posts thereof for denoting her draught, the conservator may cause the same to be ascertained by means of the operation of hooking, and the master of such vessel shall be liable to pay

Conservator may ascertain draught and charge expenses to master.

[1] This Act extends—

(*a*) to the ports mentioned in the first schedule hereto annexed, and to such parts of the navigable rivers and channels leading to such ports respectively as have been declared to be subject to Act No. XXII of 1855 (*for the regulation of Ports and Port-dues*);

Present local extent.

(*b*) to the other ports or parts of rivers or channels to which the Local Government in exercise of the power hereinafter conferred applies the provisions of this Act.

Power to extend this Act.

But nothing herein contained shall—

(*c*) apply to any vessel belonging to, or in the service of, Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State;

(*d*) deprive any person of any right of property or other private right, except as hereinafter expressly provided; or

(*e*) affect any law or rule relating to the Customs, or any order or direction lawfully made or given pursuant thereto.

[2] And nothing contained in any of the following sections, (namely) thirty-eight, thirty-nine, forty, and forty-one, shall apply to any port, river, or channel to which such section has not been especially extended by the Local Government.—[Indian Ports Act, 1875—Act XII of 1875, s. 2.]

[3] See foot-note to pp. 324 & 325 regarding Madras Harbour-dues.

[4] An order conferring on Commissioners the power of Conservators of Ports, s. 95.

[5] See as to Chittagong, Chittra Sutha, Latchnopur, Subarnrekha, Dhamra and its subsidiary ports, *Calcutta Gazette*, 8th December 1875, p. 1504.

Port-dues and charges.

the expenses of such operation.—[Indian Ports Act, 1875—Act XII of 1875, s. 50.]

Collection of port-dues.

328 (*2t*). The collector of Customs at every such port, or such other officer as the Local Government appoints in this behalf,[1] shall collect the port-dues above-mentioned.

Voucher to be given.

The officer to whom any such port-dues are paid shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his office, the port or place at which the port-dues are paid, and the name, tonnage and other proper description of the vessel in respect of which such payment is made.—[Indian Ports Act, 1875—Act XII of 1875, s. 48.]

Master to report arrival.

328 (*2u*). Within twenty-four hours after the arrival within the limits of any port subject to this Act of any vessel liable to the payment of port-dues under this or any subsequent Act, the master of such vessel shall report such arrival to the conservator of such port.

Any master without lawful excuse failing to make such report within the time aforesaid shall for every such offence be punished with fine which may extend to one hundred rupees.

Nothing in this section applies to tug-steamers, ferry-steamers, or river-steamers plying in any of the ports subject to this Act.—[Indian Ports Act, 1875,—Act XII of 1875, s. 49.]

Distraint for port-dues, fees and charges.

328 (*2v*). If the master of any vessel, in respect of which any port-dues or charges are payable under this Act refuses or neglects to pay the same on demand, the collector of Customs, or other persons authorised to collect such port-dues, fees or charges, may distrain or arrest such vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount due is paid;

and in case any part of the said port-dues or charges, or of the costs of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest so made, the collector of Customs, or other such person as aforesaid, may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy the port-dues, charges and costs, including the costs of sale remaining unpaid, and shall render the surplus (if any) to the master of such vessel upon demand.—[Indian Ports Act, 1875—Act XII of 1875, s. 52.]

No port-clearance to be granted until dues, etc., are paid.

328 (*2w*). The officer of Government, whose duty it is to grant a port-clearance for any vessel shall not grant such clearance—

(*d*) until her owner or master, or some other person, has paid or secured to the satisfaction of such officer the amount of all port-dues, fees and charges, and of all fines, penalties and expenses which such vessel or her owner or master is liable under this Act;

[1] See as to False Point, *Calcutta Gazette*, 8th December 1875, p. 1192.

(*b*) until all expenses, which by the Merchant Shipping Act, 1854, s. 228, are to be borne by her owner, incurred since her arrival in the port from which she seeks clearance, have been duly paid.—[Indian Ports Act, 1875—Act XII of 1875, s. 53.] *Port-dues and charges.*

328 (*2x*). If the master of any vessel in respect of which any port-dues or charges are payable causes her to leave any port without having discharged such dues, fees or charges, the collector of Customs or other officer authorised to collect the same may require in writing the collector of Customs or other officer as aforesaid, in any other port in British India to which she may proceed or in which she may be, to levy such dues or charges. *Port-dues, &c., payable in one port recoverable by collector of any other port.*

Every collector or other officer to whom such requisition shall be directed shall proceed to levy such dues or charges in the manner prescribed in section 52;[1] and a certificate purporting to be made and signed by the collector of Customs or other officer as aforesaid of the port where the port-dues or charges became payable, stating the amount so payable, shall be sufficient *primâ facie* proof of such amount in any proceeding under the said section, and also (in case the amount payable is disputed) in any subsequent proceeding under s. 70.[2]—[Indian Ports Act, 1875,—Act XII of 1875, s. 54.]

328 (*2y*). If the master of any such vessel evades the payment of any port-dues or charges payable under this Act, he shall be liable on conviction to a penalty not exceeding five times the amount so payable. *Penalty for evading payment of port-dues, &c.*

In any proceeding before a magistrate for the adjudication of such penalty, any such certificate as is mentioned in section 54,[3] stating that the master has evaded such payment, shall be sufficient *primâ facie* proof of the evasion, unless the master shows to the satisfaction of the magistrate that the departure of the vessel without having discharged the dues or charges payable was caused by stress of weather, or that there was lawful or reasonable ground for such departure.

Any magistrate having jurisdiction under this Act in any port to which the vessel may proceed or in which she may be found shall be deemed to have jurisdiction in any proceeding under this section.—[Indian Ports Act, 1875—Act XII of 1875, s. 55.]

328 (*2z*). Vessels entering any port subject to this Act (other than the ports in British Burma) in ballast and not carrying passengers shall be charged with a port-due not exceeding three-fourths of the port-due with which they would otherwise be chargeable.—[Indian Ports Act, 1875—Act XII of 1875, s. 56.] *Port-due on vessels in ballast.*

328 (*3a*). When any vessel enters any port subject to this Act, but does not discharge or take in any cargo or passenger therein (with the exception of such unshipment and reshipment as may be necessary for purposes of repair), the port-due chargeable in respect of such vessel shall be at a rate equal to one-half the rate chargeable in respect of other vessels: *Port-due on vessels not discharging or taking in cargo.*

[1] See s. 328 (*2v*).

[2] By s. 70, a magistrate is to determine the amount to be levied in case of dispute—see s. 328 (*5t*).

[3] See s. 328 (*4r*).

Port-dues not chargeable.

Provided that no vessel entering any of the ports subject to the Governor of Fort St. George in Council and leaving the same within forty-eight hours without discharging or taking in any passengers or cargo, shall be charged with any port-dues.—[Indian Ports Act, 1875—Act XII of 1875, s. 57.]

Port-dues not chargeable on vessels returning from stress of weather.

328 (*3b*). No port-due shall be chargeable in respect of any vessel which, having left any port, is compelled to re-enter it by stress of weather or in consequence of having sustained any damage.—[Indian Ports Act, 1875—Act XII of 1875, s. 58.]

No dues chargeable on yachts.

328 (*3c*). No port-dues shall be chargeable in respect of any pleasure yacht.—[Indian Ports Act—Act XII of 1875, s. 58A.][1]

Power to impose police port-dues.

328 (*3d*). In case the port fund of any port shall, after providing for the payment of all sums and charges now by law payable out of such port fund be insufficient to pay any expense of police and annual sums which shall, under the provisions aforesaid, be payable thereout, it shall be lawful for the said Lieutenant-Governor of Bengal, and he is hereby required, to order that there shall be paid, in addition to all port-dues and charges payable in respect of any ship from time to time lying or being in such port, such port-dues, to be called police port dues, as shall thereunto be necessary:

Provided that the same shall not exceed the port-dues in that behalf mentioned in the third schedule to this Act:

THIRD SCHEDULE.

Police Port-dues.

For every vessel entering any port, two annas per ton.

Hospital Port-dues.

For every vessel entering any port, one anna per ton.

[Ships in Port—Ben: Act III of 1887, s. 10.]

Power to impose hospital port-dues.

328 (*3e*). The Local Government may, from time to time, by notification in the official Gazette, order that there shall be paid in respect of every ship entering any port subject to this Act, within a reasonable distance of which there may be a public hospital or dispensary suitable for the reception or relief of seamen requiring medical aid, such further port-dues not exceeding one anna per ton as the Local Government thinks fit.

Such port-dues shall be called hospital port-dues.

No order imposing or increasing hospital port-dues shall take effect until the expiration of sixty days from the day on which such order has been published in the official Gazette.

Whenever the Local Government is satisfied that proper provision has been made by the owners or agents of any ship or class of ships for giving medical aid to the seamen employed on board such ship or class of ships, it may, by notification in the official Gazette, exempt such ship or class of ships

[1] See s. 3, Act XVII of 1882, Indian Ports Act, 1882.

from any payment under this section. The Local Government may, by like notification, withdraw any such exemption.—[Indian Ports Act, 1875—Act XII of 1875, s. 59.] *Port-dues and exemption.*

328 (*Ef*). Such hospital port-dues shall be applied, as the Local Government may direct, to the support of any such hospital or dispensary as aforesaid, or otherwise for providing sanitary superintendence and medical aid for the shipping in such port and for the seamen belonging to such ships, whether such seamen are ashore or afloat.—[Indian Ports Act, 1875—Act XII of 1875, s. 60.] *Application of hospital port-dues.*

328 (*Eg*). It shall be lawful for the owner of any vessel to pay to the conservator of any port three times the amount of the police port-dues and hospital port dues which would, for the time being, be payable in respect of such vessel, and thereby to discharge such vessel from all further police port dues and hospital port-dues in such port for the space of twelve calendar months from the day of the date of such payment.—[Ships in Port—Ben: Act III of 1867, s. 14.] *Power to compound port-dues.*

328 (*Eh*). It shall be lawful for the Lieutenant-Governor of Bengal, from time to time, to vary the rate of police port-dues and hospital-port-dues payable in any port as to him in his discretion shall seem fit, so as that the same shall not exceed the rates in the third schedule respectively set forth.—[Ships in Port—Ben: Act III of 1867, s. 15.] *Power to vary port-dues.*

328 (*Ei*). No order of the Lieutenant-Governor of Bengal imposing or increasing any port-dues under this Act shall take effect until the expiration of six calendar months from the day upon which such orders shall have been published in the *Calcutta Gazette*.—[Ships in Port—Ben: Act III of 1867, s. 16.] *Imposition of port-dues to be published in Gazette.*

328 (*Ej*). The port-due leviable under this Act in either of the ports of Maulmain and Bassein shall, to the extent of one anna and six pie per ton, be applicable in the first place to defray the expenses of maintaining the existing port-lights of British Burma.—[Indian Ports Act, 1875—Act XII of 1875, s. 77.][1] *Application of Maulmain and Bassein port-dues.*

Wharves and Jetties and Tolls therefor.

328 (*Ek*). When any wharf, quay, stage, jetty, or pier erected under the provisions of this Act shall have been made and completed, together with sufficient warehouses, sheds, cranes, and moorings for landing and shipping [or for landing or for shipping][2] goods from and upon sea-going vessels, it shall be lawful for the commissioners, with the sanction of the Lieutenant-Governor of Bengal, by a notification published in three consecutive numbers of the *Calcutta Gazette*, to declare that such wharf, quay, stage, jetty, or pier is ready for receiving, landing, and shipping [or for landing or for shipping][2] goods from and upon sea-going vessels. *Wharf and Jetty Tolls, &c.* *Power to compel ships to proceed to unloading wharves, &c., on commissioners' notice.*

[1] As amended by Act IX of 1879, s. 17. [2] Ben: Act VII of 1871, s. 2.

Wharf and Jetty, &c. &c.

And from and after such notification, and publication, it shall be lawful for the commissioners to require the conservator of the port, or other person exercising the right, powers and authorities of the conservator of the port, from time to time, when there shall be room at such wharf, quay, stage, jetty, or pier, to order to come alongside of such wharf, quay, stage, jetty, or pier, for the purpose of being laden or unladen by the commissioners, any sea-going vessel which shall not have commenced to discharge a cargo, or which being about to take in cargo shall not have commenced to take in cargo.

And if after such order of the conservator of the port or other person aforesaid the owner or master of any such vessel shall either take in or discharge cargo, save and except at such wharf, quay, stage, jetty or pier to which such vessel shall have been so ordered, the owner thereof, or, in case he shall not be in Calcutta, the master thereof, shall be liable to a penalty of one hundred rupees for each day that he shall land or ship or attempt to land or ship any goods in contravention of such order.—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 62.]

When sufficient accommodation, alteration and revocation of order of commissioners' wharves.

328 (*37*). When a sufficient number of wharves, quays, stages, jetties, and piers shall have been erected under this Act for landing and shipping the cargoes of all sea-going vessels resorting to the port, it shall be lawful for the commissioners, with the sanction of the Lieutenant-Governor of Bengal, by an order published in three consecutive numbers of the *Calcutta Gazette*, to direct that no goods shall be landed or shipped from or upon any sea-going vessel within the port, save at such wharves, quays, stages, jetties, and piers, and by any order in like manner published to alter, vary, or revoke any such order.

And whoever shall, after such order has been so published as aforesaid, land or ship, or attempt to land or ship, any goods in contravention of such order, shall be liable to a fine not exceeding two hundred rupees for every day that he shall so land or ship any goods in contravention of the said order:

Provided always, and it is hereby declared, that, notwithstanding any thing in this or in section 62 contained, it shall be lawful for the Lieutenant-Governor of Bengal, by notice in the *Calcutta Gazette*, from time to time, if he shall so think fit, to declare that certain specified vessels or classes of vessels shall be permitted to discharge or ship cargo, or that certain specified goods or cargoes, or classes of goods or cargoes, shall be permitted to be landed or shipped elsewhere, and at such part of the port of Calcutta and for such time and on such conditions, as he may think fit.—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 63.]

Inland vessels to land and unload at places provided for them.

328 (*3a*). When any wharf, quay, stage, jetty, or pier[1] for receiving, landing or shipping goods from vessels (not being sea-going vessels) shall have

[1] The Lieutenant-Governor of Bengal may on the recommendation of the commissioners from time to time make such bye-laws consistent with this Act and the Indian Ports Act, 1875, as he may think necessary for any of the following purposes (that is to say)—

(*a*) For regulating, declaring, and defining the wharves, quays, stages, jetties, piers on and from which goods shall be landed from and shipped in vessels within the port.

been made and completed with all proper appliances in that behalf, it shall be lawful for the commissioners, with the sanction of the Lieutenant-Governor, by an order published in three consecutive numbers of the *Calcutta Gazette*, to declare that such wharf, quay, stage, jetty, or pier is ready for receiving, landing, and shipping goods from vessels not being sea-going vessels, and in the same way to order that, within certain prescribed limits to be therein specified in that behalf, it shall not be lawful to land or ship any goods out of, or into, any vessel (not being a sea-going vessel) of any class specified in such order, except at such wharf, quay, stage, jetty, or pier.

Wharf and Jetty Tolls, &c.

And in the same way to alter, vary, or revoke any such order.

After such publication as aforesaid, it shall not be lawful for any vessel of such class to land or ship any goods at any place within the limits so specified, except at such wharf, quay, stage, jetty, or pier, nor for any such vessel, while within such limits, to anchor, fasten or lay within fifty yards of the ordinary low-water mark without the consent of the commissioners.

And if after such publication any such vessel shall, while within such limits, so anchor, fasten or lay, it shall be lawful for the commissioners to cause the same to be removed out of the said limits, and it shall be the duty of the conservator of the port to aid and assist the commissioners in so removing such vessel.

Any person guilty of any breach of the provisions of this section shall be liable to a fine not exceeding fifty rupees for every such breach.—[Calcutta Port Improvement Act, 1870—Ben. Act V of 1870, s. 64.]

328 (*3a*). For the expeditious and convenient shipment and landing of goods in and from sea-going vessels within the port, and for the storing of such goods, the commissioners shall provide and maintain sufficient wharves, quays, stages, jetties, piers, warehouses, and sheds, and sufficient servants and appliances, and shall by their servants land and ship all goods from and in any such vessel coming to such wharf, quay, stage, jetty, or pier, except

Appliances for shipping, &c., for sea-going vessels.

(*b*) For the safe and convenient use of such wharves, quays, stages, jetties, and piers, and of landing-places, tramways, warehouses, sheds and other works in and adjoining the same.

(*c*) For regulating the reception and removal of goods within and from the premises of the commissioners and for declaring the procedure to be followed for taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged.

(*d*) For the mode of payment of tolls, charges, dues and rates levied under this Act.

(*e*) For the removal of wrecks from the port or the river, and keeping clean the port, or the river, the bank of the river, and the works of the commissioners, and for preventing filth and rubbish being thrown therein or thereon.

(*f*) For regulating the hours during European seamen and apprentices shipped on the same footing as European seamen may be employed on board ships lying in the port, or on wharves, quays, stages, jetties, and piers, in work necessitating exposure to the sun.

(*g*) For otherwise carrying out the purposes of this Act and may, from time to time, on the recommendations aforesaid, vary, alter, or revoke any such bye-law so made by him. Previous to the making, alteration, or revocation of any such bye-law, the recommendation of the commissioners in respect thereof shall be published for three weeks successively in the *Calcutta Gazette*.—[Calcutta Port Improvement Amendment Act, 1881—Ben. Act I of 1881, s. 4.]

Wharf and Rates, Port, &c.

where there is a lawful excuse for refusing to land or ship such goods, or such vessel is under any enactment for the time being in force not entitled to have her cargo shipped or discharged: provided that—

(*a*) the commissioners shall not be bound to land, ship, or move any single article or package exceeding ten tons of twenty hundredweight in weight, except at such special charge as may be agreed or in respect of such article or package:

(*b*) the commissioners may, by special agreement with the masters of vessels or the owners of goods, permit goods to be landed and shipped by others than the servants of the commissioners.—[Rangoon Port Commissioners' Act, 1879—Act XV of 1879, s. 20.]

Wharves, quays, &c., completed to be ready for use.

328 (*3o*). When any wharf, quay, stage, jetty, or pier has been made and completed, with sufficient warehouses, sheds, and appliances for landing and shipping or for landing or for shipping goods from and in sea-going vessels, the commissioners may, with the previous sanction of the Local Government, by a notification published in three consecutive numbers of the local official Gazette, declare that such wharf, quay, stage, jetty, or pier is ready for receiving, landing, and shipping, or for landing or for shipping, as the case may be, goods from and in sea-going vessels.

From and after such publication the commissioners may from time to time, when there is room at such wharf, quay, stage, jetty, or pier, order to come alongside of such wharf, quay, stage, jetty, or pier, for the purpose of landing and shipping goods, or for landing or for shipping the same, as the case may be, any sea-going vessel within the port which has not commenced to discharge cargo, or which, being about to take in cargo, has not commenced to take in cargo.—[Rangoon Port Commissioners' Act, 1879—Act XV of 1879, s. 21.]

Prohibition by Government, of vessels entitled to use wharves, &c.

328 (*3p*). When a sufficient number of wharves, quays, stages, jetties, piers, warehouses, sheds, and appliances have been provided as aforesaid, the commissioners may, with the previous sanction of the Local Government, by an order published in three consecutive numbers of the local official Gazette, direct that no goods shall be landed or shipped from or in any sea-going vessels within the port, save at such wharves, quays, stages, jetties, and piers, and may, in like manner, alter, vary, or revoke any such order.—[Rangoon Port Commissioners' Act, 1879—Act XV of 1879, s. 22.]

Wharves, &c., for vessels not being sea-going vessels.

328 (*3q*). When any wharf, quay, stage, jetty, or pier for receiving, landing, or shipping goods from or in vessels, not being sea-going vessels, has been made and completed by the commissioners, with sufficient warehouses, sheds, and appliances in that behalf, the commissioners may, with the sanction of the Local Government, by an order published in three consecutive numbers of the local official Gazette, declare that such wharf, quay, stage, jetty, or pier is ready for receiving, landing, and shipping goods from or in vessels, not being sea-going vessels, and that, within certain prescribed limits within the port to be specified in such order, it shall not be lawful to land or ship any goods from or in any vessel not being a sea-going vessel of any class

specified in such order, except at such wharf, quay, stage, jetty, or pier, nor for any such vessel while within such limits to anchor, fasten or lay within fifty yards of low-water mark without the consent of the commissioners.

Wharf and Jetty Piers, &c.

If after such publication any such vessel, while within such limits, so anchors, fastens or lays, the commissioners may cause the same to be removed out of the said limits.

The commissioners may in like manner, with the like sanction, alter, vary, or revoke any such order.—[Rangoon Port Commissioners' Act, 1879—Act XV of 1879, s. 23.]

Power to require vessels to be moved from wharves.

328 (*3r*). The commissioners may, by notice in writing, order the master, owner, or agent of any vessel to remove such vessel from any wharf, quay, stage, jetty, or pier belonging to the commissioners, and unless such vessel shall be removed therefrom within thirty-six hours after service of such notice on the officer in charge of such vessel, or the master, owner, or agent thereof, it shall be lawful for the commissioners to charge in respect of such vessel, for the use by such vessel of such wharf, quay, stage, jetty, or pier, such sum not exceeding fifty rupees for each day of twenty-four hours or portion of such day, after the expiry of such thirty-six hours during which such vessel shall remain at such wharf, quay, stage, jetty, or pier, as to the commissioners shall seem fit.—[Calcutta Port Improvement Act, 1871—Ben: Act VII of 1871, s. 3.]

Power to order removal of vessels from wharves, &c.

328 (*3s*). The commissioners may, by notice in writing, order the master or owner of any vessel to remove such vessel from any wharf, quay, stage, jetty, or pier belonging to the commissioners, and, unless such vessel is removed therefrom within thirty-six hours after service of such notice on the master or owner thereof, the commissioners may charge in respect of such vessel such sum as they think fit not exceeding one hundred rupees for each day of twenty-four hours or portion of such day after the expiry of such thirty-six hours during which such vessel remains at such wharf, quay, stage, jetty, or pier.—[Rangoon Port Commissioners' Act 1879—Act XV of 1879, s. 24.]

Power to exempt from obligation to use wharves, &c.

328 (*3t*). Notwithstanding anything contained in sections twenty-one, twenty-two, and twenty-three,[1] the Local Government may, by notification in the local official Gazette, from time to time permit certain specified vessels or classes of vessels to discharge or ship cargo, or certain specified cargo or classes of cargo, at such part of the port,[2] in such manner, during such period,

[1] Ss. 328 (*3o*), 328 (*3p*), 328 (*3q*).

[2] The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, define the limits of the port for the purposes of this Act, and may, from time to time, with the like sanction and by a like notification, alter such limits.

Such limits may extend to any part of the navigable approaches to the port, and may include any wharves, quays, stages, jetties, piers, tramways, warehouses, sheds and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance and good government of the port or river, whether within or without high-water mark, and (subject to any rights of private property therein) any portion of the shore or bank within fifty yards of high-water mark.—[Act XV of 1879, s. 3.]

Wharf and Jetty Tolls, &c.

subject to such payments, and on such conditions, as the Local Government may think fit, and otherwise grant exemption from the provisions of such sections.

The Local Government may also, by like notification, cancel or modify any such notification.—[Rangoon Port Commissioners' Act, 1879—Act XV of 1879, s. 25.]

Discharge of liability on goods landed.

328 (*3a*). Whenever any goods are landed by the commissioners from any vessel, the commissioners shall, if so required, give to the master of such vessels a receipt in the form or to the effect set forth in Schedule B, hereto annexed, and may in any such receipt include all goods landed from such vessel during one day.

No master or owner of a vessel from which the goods in respect of which such receipt is given may have been landed shall be liable for any loss or damage to such goods which may occur after they have been so landed.

SCHEDULE B.

Receipt for goods.

By the Port Commissioners, Rangoon.

Landed during day of from , by the Port Commisioners, Rangoon, the noted in the margin; contents and state of the contents unknown.

Note.—If there be any apparent injury, this is to be stated.

Sd. *For the Port Commissioners, Rangoon,*

Rangoon,
The day of .

[Rangoon Port Commissioners' Act, 1879—Act XV of 1879 s. 26.]

Scale of tolls and charges to be framed.

328 (*3b*). The commissioners shall frame—

(*a*) a scale of tolls, dues, rates, and charges for the landing and shipment of goods from and in sea-going vessels and vessels not being sea-going vessels respectively at the wharves, quays, stages, jetties, and piers, and for the use of such wharves, quays, stages, jetties, and piers by such vessels, and for the storing and keeping of any goods stored in any premises belonging to the commissioners, and for the removal of goods, and for the use of any mooring;

(*b*) a scale of tolls for the use of the said wharves, quays, moorings, stages, jetties, and piers by any such vessels, in case the commissioners permit the goods to be landed or shipped by others than their own servants; and

(*c*) a scale of charges for any services to be performed by the commissioners or their servants in respect of any vessels or goods, or for

the use of any works or appliances to be provided by the commissioners.

Wharf and Jetty Tolls, &c.

Such scales shall be submitted to the Local Government and, after approval or modification by the Local Government, shall be published by the commissioners in the local official Gazette.

Subject to the like approval or modification and publication, the commissioners may, from time to time, alter the said scales.

Every such scale shall be printed in the English and Burmese languages and characters, and shall be hung up, and kept hung up, in some conspicuous place at the several wharves, quays, stages, jetties, piers, warehouses, and sheds.—[Rangoon Port Commissioners' Act, 1879—Act XV of 1879, s. 32.]

328 (*3e*). The commissioners shall frame a scale of tolls, dues, rates and charges for the landing and shipment of goods from and into sea-going vessels at the wharves, quays, stages, jetties, and piers erected under this Act, and for the use thereof by such vessels, and for the storing and keeping of any goods stored in any premises belonging to them, and for the removal of goods and for the use of any moorings laid down or acquired under the provisions of this Act or of Act X of 1866, or of Act IV of 1869, respectively passed by the Lieutenant-Governor of Bengal in Council.

Tolls to be levied.

And also a scale of tolls, dues, and rates for the landing and shipment of goods into, and out of, any vessel (not being a sea-going vessel), and also a scale of tolls for the use of the said wharves, quays, moorings, stages, jetties, and piers by any such vessel, in case the commissioners shall permit the goods to be landed or shipped by others than their own officers and servants, and also a scale of charges for any services to be performed by the commissioners or their servants in respect of any vessels or goods, or for the use of any works or appliances to be provided by the commissioners.

Such scale of tolls, dues, rates and charges shall be adopted by a resolution of the commissioners at a meeting, and shall be submitted to the Lieutenant-Governor of Bengal, and, after receiving his approval, shall be published by the commissioners in the *Calcutta Gazette*, and may from time to time, subject to the like approval and publication, be in like manner altered.—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 65.]

328 (*3x*). It shall be lawful for the Governor in Council from time to time by notification in the *Bombay Government Gazette* and in the *Sindh Official Gazette*,

Governor in Council to fix limits of landing, &c., and fees to be levied in port at Karachi.

(*a*) to determine the limits of any Government landing-place to which the provisions of this Act shall apply;

(*b*) to fix the fees to be levied—

(1) for the landing, shipping, wharfage, cranage, storage, or demurrage of goods at; and

Wharf and Jetty Tolls, &c.

(2) for permitting animals or vehicles to bring or remove goods to or from, or to ply for hire at; and

(3) for permitting vessels or boats to approach or lie alongside any such landing-place:

Provided that it shall be lawful for the Governor in Council at any time to exempt any goods, vessel, boat, animal, or vehicle, either wholly or partially, from any fee to which the same may be liable under this section.—[The Karachi Landing and Wharfage Fees Act, 1879—Bom. Act III of 1879, s. 3.]

Levy of harbour dues on goods to Madras.

328 (3*f*). Harbour-dues according to such rates[1] as shall, from time to time, be settled or approved by the Governor of Fort St. George in Council shall be levied upon all goods, persons, carts, carriages, baggage and other articles, and upon all cattle and other animals landed from, or shipped on board, vessels within the port or harbour of Madras. Such dues shall be payable in addition to all tolls and charges now lawfully levied within such port or harbour, but in lieu of the tolls now leviable under section 1 of Madras Act V of 1863 (*The Madras Pier Act*).—[Madras Harbour-dues Act, 1882—Mad. Act VI of 1882, s. 3.]

Payment of such dues.

Power to make rules.

328 (3*z*). The Government may from time to time make rules—

(*a*) Appointing places where goods intended for shipment or landed from ships within the port or harbour of Madras are to be placed for the purpose of assessing the dues payable under this Act.

(*b*) Regulating the manner in which such dues shall be assessed and the time when they shall be paid.

Such rules and any alteration or cancellation thereof shall be published in the *Fort St. George Gazette* and shall thereupon have the force of law.—[Madras Harbour-dues Act, 1882—Mad. Act VI of 1882, s. 5.]

Power to distrain vessels for non-payment of tolls.

328 (4*a*). If the master of any vessel in respect of which any tolls, dues, rates, penalties, or charges shall be payable under this Act, or any rules or orders made in pursuance thereof, shall refuse or neglect to pay the same or any part thereof on demand, it shall be lawful for the commissioners to apply to the collector of Customs of the port of Calcutta, and such collector shall distrain or arrest of his own authority such vessel, and the tackle, apparel, and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the commissioners shall be paid; and in case any part of the said tolls, dues, rates, penalties or charges, or of the costs of the distress or arrestment, or of the keeping of the same, shall remain unpaid for the space of five days next after any such distress or arrestment shall have been so made, the collector of Customs may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such tolls, dues, rates, penalties or charges and costs, including the costs of sale, remaining unpaid, rendering the surplus (if any) to the master of such

[1] Rates must be published in *Fort St. George Gazette* seven days before the dues are to become payable (s. 4).

vessel on demand.—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 74.]

Distraint and sale, &c.

328 (*b*). If the master of any vessel in respect of which any tolls, dues, rates, charges or penalties are payable under this Act, or any rules or orders made in pursuance thereof, refuses or neglects to pay the same or any part thereof on demand, the commissioners may apply to the collector of Customs of the port, and such collector shall distrain or arrest such vessel and the tackle, apparel, and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the commissioner is paid;

Recovery of tolls and charges by distraint of vessel.

and, in case any part of the said tolls, dues, rates, charges or penalties, or of the costs of the distress or arrestment, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrestment has been so made, the collector of Customs may cause the vessel or other thing so distrained or arrested to be sold, and, with the proceeds of such sale, shall satisfy such tolls, dues, rates, charges or penalties and costs, including the cost of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.—[Rangoon Port Commissioners' Act, 1879—Act XV of 1879, s. 39.]

Port-clearance not to be granted till tolls, &c., are paid.

328 (*c*). If the commissioners give to the officer of Government whose duty it is to grant the port-clearance of any vessel a notice stating that an amount therein specified is due in respect of tolls, rates, charges or penalties chargeable under this Act, or any rules or orders made in pursuance thereof, against such vessel or the owner or master of such vessel in respect thereof, or against or in respect of any goods on board such vessel, such officer shall not grant such port-clearance until the amount so chargeable has been paid.—[Rangoon Port Commissioners' Act, 1879—Act XV of 1879, s. 40.]

Port-clearance not to be granted till tolls paid.

328 (*d*). If the commissioners shall give to the officer of Government whose duty it shall be to grant the port-clearance of any vessel a notice stating that an amount therein specified is due in respect of tolls, dues, rates or charges, or penalties chargeable under this Act, or any bye-laws, rules, or orders made in pursuance thereof, against such vessel or the owner or master of such vessel in respect thereof, or against or in respect of any goods on board such vessel, such officer shall not grant such port-clearance until the amount so chargeable shall have been paid.—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 75.]

Recovery of tolls in arrest.

328 (*e*). For the amount of all tolls, charges, dues, and rates duly leviable under this Act in respect of any goods, the commissioners shall have a lien on such goods, and shall be entitled to seize and detain the same until such tolls, rates, and dues are fully paid.

Tolls, rates and dues in respect of goods to be landed shall become payable immediately on the landing of goods.

Tolls, rates and dues in respect of goods to be removed from the premises of the commissioners, or to be shipped for export, shall be payable before the goods are removed or shipped.

Wharf and Jetty Tolls, &c.

The lien for such tolls, rates, and dues shall have priority over all other liens and claims, except for general average, for the ship-owner's lien for freight upon the said goods where such lien exists and has been preserved in the manner hereinafter provided, for primage, and for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force:

Provided that nothing in this Act shall affect any power or authority vested in the chief officer of Customs under any law for the time being in force.—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 68.]

Commissioners' lien for tolls and charges.

328 (*4f*). For the amount of all tolls, dues, rates and charges levied under this Act in respect of any goods, the commissioners shall have a lien on such goods and shall be entitled to seize and detain the same until such tolls, dues, rates and charges are fully paid.

Tolls, dues, rates and charges in respect of goods to be landed shall become payable immediately on the landing of the goods, and in respect of goods to be removed from the premises of the commissioners or to be shipped for export, shall be payable before the goods are removed or shipped.

The lien for such tolls, dues, rates and charges shall have priority over all other liens and claims, except a lien for freight, primage and general average where such lien has been preserved in the manner hereinafter provided, and a lien for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force.—[Rangoon Port Commissioners' Act, 1879—Act XV of 1879, s. 33.]

Owner's lien for freight.

328 (*4g*). If the master or owner of any vessel, at or before the time of landing from such vessel of any goods at any wharf, quay, stage, jetty, or pier, gives to the commissioners notice in writing that such goods are to remain subject to a lien for freight, primage or general average of an amount to be mentioned in such notice, such goods shall continue liable after the landing thereof to such lien.

Such goods shall be retained either in the warehouses and sheds of the commissioners, or, with the consent of the chief officer of Customs, in the public warehouses, at the risk and expense of the owners of the said goods, until the lien is discharged as hereinafter mentioned.—[Rangoon Port Commissioners' Act, 1879—Act XV of 1879, s. 34.]

Lien for freight preserved after landing of goods if notice of lien be given.

328 (*4h*). If the master or owner of any vessel or his agent, at or before the time of landing from such vessel any goods at any wharf, quay, stage, jetty, or pier erected under this Act, shall give to the commissioners notice in writing that such goods are to remain subject to a lien for freight or other charges payable to the ship-owner to an amount to be mentioned in such notice, such goods shall continue liable to the same lien, if any such charges, as they were subject to before the landing thereof.

Such goods shall be retained either in the warehouses and sheds of the commissioners, or, with the consent of the chief officer of Customs, in the public warehouses, at the risk and expense of the owners of the said goods, until

the lien is discharged as hereinafter mentioned.—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 70.]

Wharf and Jetty Tolls, &c.

328 (*h*). If the master or owner of any vessel, or his agent, at or before the time of landing from such vessel any goods at any wharf, dock, or pier in the possession of the Board shall give to the Board notice in writing that such goods are to remain subject to a lien for freight or other charges payable to the ship-owner, to an amount to be mentioned in such notice, such goods shall continue liable to the same lien, if any, for such charges as they were subject to before the landing thereof. Such goods shall be retained either in the warehouses and sheds of the Board, or, with the consent of the chief Customs authority of the Presidency, in the public warehouses, at the risk and expense of the owners of the said goods until the lien is discharged as hereinafter mentioned.—[Bombay Port Trusts Act, 1879—Bom: Act VI of 1879, s. 62.]

Lien for freight preserved after landing if notice be given.

328 (*i*). Upon the production to the officer of the commissioners in that behalf of a document purporting to be a receipt for the amount claimed as due, or a release of freight from the person by or on whose behalf such notice shall have been given, it shall be lawful for the commissioners to permit such goods to be removed without regard to such lien, provided they shall have used reasonable care in respect of the authenticity of such document—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 71.]

Discharge of lien by payment or release.

328 (*k*). Upon production to the proper officer of the Board of a document purporting to be a receipt for the amount claimed as due, or a release of freight from the person by or on whose behalf such notice shall have been given, it shall be lawful for the Board to permit such goods to be removed without regard to such lien, provided they shall have used reasonable care in respect to the authenticity of such document.—[Bombay Port Trusts Act, 1879—Bom: Act VI of 1879, s. 63.]

Discharge of lien by payment or release.

328 (*l*). If the rates payable to the Board in respect of any goods are not paid, or if the lien of the ship-owner for freight, when such notice as aforesaid has been given, is not discharged, the Board may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, shall, at the expiration of two months from the time when the goods were placed in their custody, or if the goods are of a perishable nature, at such earlier period (being not less than twenty-four hours after the landing of the goods) as they shall think fit, sell by public auction the said goods, or so much as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

If rates not paid, or lien for freight not discharged, goods may be sold after two months.

Before making such sale, ten days' notice of the same shall be given by publication thereof in the *Bombay Government Gazette*, unless the goods are of so perishable a nature as, in the opinion of the officer aforesaid, to render their immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of.

If the address of the owner of the goods has been stated on the manifest of the cargo or in any of the documents which have come into the hands of

Wharf and Jetty Tolls, &c.

the Board, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address, or sent by post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send the notice hereinbefore mentioned, nor shall any such purchaser be bound to enquire whether such notice has been sent.—[Bombay Port Trusts Act, 1879—Bom: Act VI of 1879, s. 64.]

If tolls not paid, or lien for freight not discharged, goods may be sold after expiration of two months.

328 (*4m*). If the tolls, rates, and dues payable to the commissioners in respect of any goods under this Act are not paid, or if the lien of the ship-owner for freight where such notice as aforesaid has been given is not discharged, the commissioners may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, shall, at the expiration of two months from the time when the goods were placed in their custody, or if the goods are of a perishable nature at such earlier period, being not less than twenty-four hours after the landing of the goods, as they shall think fit, sell by public auction the said goods, or so much as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Before making such sale, ten days' notice of the same shall be given by publication thereof in the *Calcutta Gazette*, unless the goods are of so perishable a nature as in the opinion of the officer of the commissioners in that behalf to render immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of.—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 72.]

Recovery of tolls and charges by sale of goods.

328 (*4n*). If the tolls, dues, rates and charges payable to the commissioners in respect of any goods under this Act are not paid, or if the lien for freight primage or general average where such notice as aforesaid has been given is not discharged, the commissioners may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, primage or general average, shall, at the expiration of four months from the time when the goods were placed in their custody, sell by public auction the said goods, or so much thereof as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Before making such sale, ten days' notice of the same shall be given by publication thereof in the local official Gazette and in two local newspapers.

If the address of the owner of the goods has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the commissioners, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address or sent by the post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send such notice, nor shall any such purchaser be bound to enquire whether such notice has been sent:

Provided that, if such goods are of so perishable a nature as, in the opinion of the officer appointed by the commissioners in that behalf, to render early or immediate sale necessary or advisable, the commissioners may, within such period not less than twenty-four hours after the landing of the

goods as they think fit, sell by public auction the said goods or such portion of them as aforesaid, in which event such notice, if any, shall be given to the owner of the goods as the urgency of the case admits of.—[Rangoon Port Commissioners' Act, 1879—Act XV of 1879, s. 37.]

Wharf and Jetty Tolls, &c.

328 (*fa*). It shall be lawful for the officer[1] of Government appointed under this Act or any of his assistants to detain any such goods until the lawful dues are paid. It shall be the duty of such officer to give notice in writing to the owner or consignee, if known, stating the amount of dues and charges payable in respect of such goods, and in the event of such payment being refused or delayed for the space of one week from the date of such notice if the owner or consignee of such goods shall be in Madras, or otherwise for the space of one calendar month from the date on which such dues are payable, it shall be lawful for such officer of Government to sell or cause to be sold by public auction the said goods, and after paying the expenses of such detention and sale, and double the amount of the dues by way of fine, to pay the surplus, if any, of the proceeds of the sale to the owner or consignee or other person entitled thereto, if claimed within six months from the date of sale:

Power to detain goods until the dues are paid.

Provided that, if the goods are of a perishable nature, the said officer of Government may sell the same or cause them to be sold at such earlier period, being not less than twenty-four hours after the landing of the goods, as he shall think fit.—[Madras Harbour Dues Act, 1882—Mad: Act VI of 1882, s. 8.]

Proviso.

328 (*fb*). In every case of any such sale as aforesaid, the money received from the sale shall be applied as follows:—

Application of proceeds of sale.

1st,—in payment of the expenses of the sale;

2ndly,—in payment according to their respective priorities of the liens and claims excepted in section 68 from the priority of the liens of the commissioners for tolls, rates, and dues;

3rdly,—in payment of the tolls, charges and expenses of landing, removing, storing or warehousing the same, and of all other charges due to the commissioners under this Act in respect thereof.

The surplus, if any, shall be paid to the importer, owner, or consignee of the goods, or to his agent, on his applying for the same; provided such application be made within one year from the sale of the goods, or good reason be shown why such application was not so made to the satisfaction of the commissioners; and in case such application shall not be so made, nor reason shown, such surplus shall be held by the commissioners upon trusts for the

[1] The Governor of Fort St. George in Council shall appoint an officer to levy and receive dues (s. 7).

Penalty for demanding extra dues, or for unlawfully detaining and selling goods under colour of the Act, is punishable as cheating under the Penal Code, s. 9.

Penalty for removing goods without payment of dues in contravention of s. 5 to a fine up to Rs. 100, or in default of simple or rigorous imprisonment for two months—s. 10, Mad. Act VI of 1882.

Wharf and Jetty Rates, &c.

purposes of this Act.—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 73.]

Delivery of goods and lien for freight.

Delivery of goods and lien for freight on goods imported into the United Kingdom.

Power to ship-owner to enter and land goods in default of entry and landing by owner of goods.

328 (*1q*). Where the owner of any goods imported in any ship from foreign parts into the United Kingdom fails to make entry thereof, or having made entry thereof to land the same or take delivery thereof and to proceed therewith with all convenient speed, by the times severally hereinafter mentioned, the ship-owner may make entry of and land or unship the said goods at the times, in the manner, and subject to the conditions following (that is to say)—

(1) If a time for the delivery of the goods is expressed in the charter party, bill of lading, or agreement, then at any time after the time so expressed:

(2) If no time for the delivery of the goods is expressed in the charter party, bill of lading, or agreement, then at any time after the expiration of seventy-two hours, exclusive of a Sunday or holiday, after the report of the ship:

(3) If any wharf or warehouse is named in the charter party, bill of lading, or agreement, as the wharf or warehouse where the goods are to be placed, and if they can be conveniently there received, the ship-owner in landing them by virtue of this enactment shall cause them to be placed on such wharf or in such warehouse:

(4) In other cases the ship-owner in landing goods by virtue of this enactment shall place them in or on some wharf or warehouse on or in which goods of a like nature are usually placed; such wharf or warehouse being, if the goods are dutiable, a wharf or warehouse duly approved by the commissioners of Customs for the landing of dutiable goods:

(5) If at any time before the goods are landed or unshipped the owner of the goods is ready and offers to land or take delivery of the same, he shall be allowed so to do; and his entry shall in such case be preferred to any entry which may have been made by the ship-owner:

(6) If any goods are, for the purpose of convenience in assorting the same, landed at the wharf where the ship is discharged, and the owner of the goods at the time of such landing has made entry and is ready and offers to take delivery thereof, and to convey the same to some other wharf or warehouse, such goods shall be assorted at landing, and shall, if demanded, be delivered to the owner thereof within twenty-four hours after assortment; and the expense of and consequent on such landing and assortment shall be borne by the ship-owner:

(7) If at any time before the goods are landed or unshipped the owner thereof has made entry for the landing and warehousing thereof at any particular wharf or warehouse other than that at which the ship is discharging, and has offered and been ready to take delivery thereof, and the ship-owner has failed to make such delivery and has also failed at the time of such offer to give the owner of the goods correct information of the time at which such goods can be delivered, then the ship-owner shall, before landing or unshipping such goods under the power hereby given to him, give to the owner of the goods or of such wharf or warehouse as last aforesaid twenty-four hours' notice in writing of his readiness to deliver the goods; and shall, if he lands or unships the same without such notice, do so at his own risk and expense.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 67.] *Delivery of goods and lien for freight.*

328 (*4r*). If, at the time when any goods are landed from any ship and placed in the custody of any person as a wharf or warehouse owner, the ship-owner gives to the wharf or warehouse owner notice in writing that the goods are to remain subject to a lien for freight or other charges payable to the ship-owner, to an amount to be mentioned in such notice, the goods so landed shall, in the hands of the wharf or warehouse owner, continue liable to the same lien, if any, for such charges as they were subject to before the landing thereof; and the wharf or warehouse owner receiving such goods shall retain them until the lien is discharged as hereinafter mentioned, and shall, if he fail so to do, make good to the ship-owner any loss thereby occasioned to him.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 68.] *If when goods are landed, the ship-owner give notice for that purpose, the lien for freight shall continue.*

328 (*4s*). Upon the production to the wharf or warehouse owner of a receipt for the amount claimed as due, and delivery to the wharf or warehouse owner of a copy thereof or of a release of freight from the ship-owner, the said lien shall be discharged.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 69.] *Lien to be discharged on proof of payment.*

328 (*4t*). The owner of the goods may deposit with the wharf or warehouse owner a sum of money equal in amount to the sum so claimed as aforesaid by the ship-owner, and thereupon the lien shall be discharged; but without prejudice to any other remedy which the ship-owner may have for the recovery of the freight.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 70.] *Lien to be discharged on deposit of amount with warehouse owner.*

328 (*4u*). If such deposit as aforesaid is made with the wharf or warehouse owner, and the person making the same does not within fifteen days after making it give to the wharf or warehouse owner notice in writing to retain it, stating in such notice the sum, if any, which he admits to be payable to the ship-owner, or, as the case may be, that he does not admit any sum to be so payable, the wharf or warehouse owner may, at the expiration of such fifteen days, pay the sum so deposited over to the ship-owner, and shall by such *Warehouse owner may at the end of 15 days, if no notice is given, pay deposit to ship-owner.*

Delivery of goods and lien for freight.

Course to be taken if notice to remainder paid is given.

payment be discharged from all liability in respect thereof.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 71.]

328 (*ir*). If such deposit as aforesaid is made with the wharf or warehouse owner, and the person making the same does within fifteen days after making it give to the wharf or warehouse owner such notice in writing as aforesaid, the wharf or warehouse owner shall immediately apprize the ship-owner of such notice, and shall pay or tender to him out of the sum deposited the sum, if any, admitted by such notice to be payable, and shall retain the remainder or balance, or, if no sum is admitted to be payable, the whole of the sum deposited, for thirty days from the date of the said notice; and at the expiration of such thirty days, unless legal proceedings have in the meantime been instituted by the ship owner against the owner of the goods to recover the said balance or sum or otherwise for the settlement of any disputes which may have arisen between them concerning such freight or other charges as aforesaid, and notice in writing of such proceedings has been served on him, the wharf or warehouse owner shall pay the said balance or sum over to the owner of the goods, and shall by such payment be discharged from all liability in respect thereof.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 72.]

Wharf or warehouse owner may sell goods by public auction.

328 (*is*). If the lien is not discharged, and no deposit is made as hereinbefore mentioned, the wharf or warehouse owner may, and, if required by the ship-owner, shall, at the expiration of ninety days from the time when the goods were placed in his custody, or, if the goods are of a perishable nature, at such earlier period as he in his discretion thinks fit, sell by public auction, either for home use or exportation, the said goods or so much thereof as may be necessary to satisfy the charges hereinafter mentioned.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 73.]

Notice of sale to be given.

328 (*it*). Before making such sale the wharf or warehouse owner shall give notice thereof by advertisement in two newspapers circulating in the neighbourhood, or in one daily newspaper published in London and in one local newspaper, and also, if the address of the owner of the goods has been stated on the manifest of the cargo, or on any of the documents which have come into the possession of the wharf or warehouse owner, or is otherwise known to him, give notice of the sale to the owner of the goods by letter sent by the post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send notice as hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 74.]

Monies arising from sale how to be applied.

328 (*iy*). In every case of any such sale as aforesaid the wharf or warehouse owner shall apply the monies received from the sale as follows, and in the following order:—

(1) If the goods are sold for home use, in payment of any customs or excise duties owing in respect thereof:

(2) In payment of the expenses of the sale:

(3) In the absence of any agreement between the wharf or warehouse owner and the ship-owner concerning the priority of their respective charges, in payment of the rent, rates, and other charges due to the wharf or warehouse owner in respect of the said goods:

(4) In payment of the amount claimed by the ship-owner as due for freight or other charges in respect of the said goods:

(5) But in case of any agreement between the wharf or warehouse owner and the ship-owner concerning the priority of their respective charges, then such charges shall have priority according to the terms of such agreement:

and the surplus, if any, shall be paid to the owner of the goods.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 75.]

Delivery of goods and lien for freight.

328 (*4c*). Whenever goods are placed in the custody of a wharf or warehouse owner under the authority of this Act, the said wharf or warehouse owner shall be entitled to rent in respect of the same, and shall also have power from time to time, at the expense of the owner of the goods, to do all such reasonable acts as in the judgment of the said wharf or warehouse owner are necessary for the proper custody and preservation of the said goods, and shall have a lien on the said goods for the said rent and expenses.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 76.]

Warehouse owner's rent and expenses.

328 (*5a*). Nothing in this Act contained shall compel any wharf or warehouse owner to take charge of any goods which he would not be liable to take charge of if this Act had not passed; nor shall he be bound to see to the validity of any lien claimed by any ship-owner under this Act.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 77.]

Restrictions on liability of warehouse owners.

328 (*5b*). Nothing in this Act contained shall take away or abridge any powers given by any local Act to any harbour trust, body corporate, or persons, whereby they are enabled to expedite the discharge of ships or the landing or delivery of goods; nor shall anything in this Act contained take away or diminish any rights or remedies given to any ship-owner or wharf or warehouse owner by any local Act.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 78.]

Saving of powers under local Acts.

Certain Regulation regarding the Landing of Passengers and Goods in the Ports in the Andamans.

Regulations regarding landing of Passengers and Goods in the Ports of the Andamans.

328 (*5c*). The master of any vessel shall not land or anchor such vessel for the purpose of landing any person or any goods or things at any place on the coast of any of the said islands, except at such place as may be declared a port under the provisions of the Act for the time being in force for the regulation of ports and port-dues.

Penalty for master anchoring his vessel for the purpose of landing of passengers or goods at unauthorised port.

Any master so offending shall be liable to a fine not exceeding one thousand

Regulations regarding landing of Passengers and Goods in the Ports of the Andamans.

Penalty for landing at unauthorised ports.

rupees.—[The Andaman and Nicobar Islands Regulation, 1876—Reg. III of 1876,[1] s. 15.]

328 (*5d*). No person shall land from any vessel at any place on the coast of any of the said islands not within the limits of some port declared under the provisions of such Act.

Any person so offending shall be liable to a fine not exceeding five hundred rupees, and any goods or thing landed from any vessel, except within such limits, may be seized by any person in the employment of Government, and may be confiscated if the Chief Commissioner, or any officer empowered by him in this behalf, so directs.—[The Andaman and Nicobar Islands Regulation, 1876—Reg. III of 1876, s. 16.]

Exception from provisions of last two sections.

328 (*5e*). The provisions of the last two preceding sections[2] shall not apply to any vessel the property of Her Majesty or used for any public purpose, nor to any person, goods, or thing landed from such vessel, nor in any other case when the provisions of the same sections have been infringed from stress of weather or other unavoidable circumstances.—[The Andaman and Nicobar Islands Regulation, 1876—Reg. III of 1876, s. 17.]

Master of vessel entering port to deliver list of crew.

328 (*5f*). The master of any vessel entering the port of Camorta or any port in the Andamans shall, within twenty-four hours from the time of so entering, deliver to the conservator of the port a list of the crew and passengers on board of such vessel, as well as a manifest of the cargo carried by such vessel.

Penalty.

Any master failing to deliver such list and manifest within such period shall be liable to a fine not exceeding five hundred rupees.—[The Andaman and Nicobar Islands Regulation, 1876—Reg. III of 1876, s. 18.]

Penalty for any person landing without license.

328 (*5g*). No person shall land within the limits of any such port, except under a license granted as hereinafter provided, or under the written permission of the conservator of the port, or of the Chief Commissioner, or some officer empowered by him to grant such permission, and any person so landing without such license or permission shall be liable to a fine not exceeding five hundred rupees.—[The Andaman and Nicobar Islands Regulation, 1876—Reg. III of 1876, s. 19.]

Penalty for landing goods without license.

328 (*5h*). No goods or other thing shall be landed within the limits of any such port except under the written permission of the conservator of the port or other officer appointed on that behalf; and any goods or thing landed without such permission shall be liable to be seized by any person in the employment of Government, and may be confiscated if the Chief Commissioner, or any officer empowered by him on this behalf, so directs.—[The Andaman and Nicobar Islands Regulation, 1876—Reg. III of 1876, s. 20.]

[1] The Act extends to the group of Islands known as the Great and Little Andamans and Little Cocos with their dependencies (in the Act called "the Andamans") and to the island of Narcowry, together with the Nicobar Islands, *i.e.*, the Islands of Car Nicobar and Great Nicobar, with those lying between them including Tillanchong.—[Reg. III of 1876, s. 1.]

[2] Sections 328 (*5c*) and 328 (*5d*).

Regulations regarding Landing of Passengers and Goods in the Ports of the Andamans.

Master leaving port to deliver list of crew.

328 (5*d*). Every master of a vessel shall, within such time before the departure of such vessel from any such port as the Chief Commissioner may from time to time by general rules or special orders direct, deliver to the conservator of such port a correct list of the crew and other persons about to sail in such vessel, specially designating the persons (if any) who have not arrived at the Settlement in such vessel; and every master failing to deliver such list shall be liable to a fine not exceeding one thousand rupees.

If any such master, after delivering the list herein mentioned, takes or receives on board his vessel any person, not mentioned in such list, for the purpose of taking him from such port, without forthwith informing the conservator of such port of the name of such person, he shall be liable to a fine of five hundred rupees for every such person so taken or received on board.—[The Andaman and Nicobar Islands Regulation, 1876—Reg. III of 1876, s. 21.]

Inspection of vessels.

328 (5*e*). Every master of any vessel anchored in, or about to depart from, any such port shall, on the requisition of the conservator of the port or other person acting under the instructions of the superintendent or the port-officer or other officer as aforesaid, permit such conservator or other person to inspect such vessel and shall produce before such conservator or other person any person who may be on board of such vessel.

Penalty.

Any master failing to comply with any of the provisions of this section shall be liable to a fine not exceeding one thousand rupees.—[The Andaman and Nicobar Islands Regulation, 1876—Reg. III of 1876, s. 22.]

Penalty for receiving on board a convict for the purpose of escape.

328 (5*f*). If the master of any vessel or other person wilfully receives on board such vessel any convict undergoing a sentence of transportation for the purpose of conveying him from any penal Settlement without proper authority, such master or other person shall be liable to a fine not exceeding one thousand rupees, in addition to any punishment that may be inflicted upon him under the provisions of the Indian Penal Code.—[The Andaman and Nicobar Islands Regulation, 1876—Reg. III of 1876, s. 23.]

Power to board and search vessels in order to prevent illicit introduction of opium, ganja, &c.

328 (5*g*). Whenever the Chief Commissioner or the Deputy Superintendent of the Settlement has reason to believe that any person on board any vessel in any port of the Andamans or in the port of Camorta is in possession of any opium or ganja or other hurtful or intoxicating drug, with intent to introduce the same into any Settlement in contravention of section thirty-one[1] of this Regulation, the Chief Commissioner or the Deputy Superintendent, as the case may be, may by an order in writing authorise any officer of police, not below the grade of Inspector, to board and search such vessel and to seize such drug and to arrest the person possessing the same.

Any person possessing any such drug on board a vessel in any of the said ports with the intent aforesaid may on conviction be punished with

[1] s. 31 prohibits the introduction of certain goods without a license.

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Regulations regarding Landing of Passengers and Goods in the Ports of the Andamans.

imprisonment of either description for a term not exceeding six months, or with fine not exceeding one thousand rupees, or with both.

and the drug if any such is seized may be confiscated by order of the convicting magistrate.—[Andaman and Nicobar Islands Regulation, 1876—Reg. III of 1876, s. 25.]

Application of enactments to fines.

328 (5*m*). The provisions of sections 63 to 70, both inclusive, of the Indian Penal Code, and of section 307 of the Code of Criminal Procedure, shall apply to all fines imposed under this Regulation, or under the rules made in the exercise of the power given by section thirty-three.

Recovery of fines in the case of masters of vessels.

In the case of the master of a vessel, such fine may also be levied by the distress and sale of such vessel, and the tackle, apparel, and furniture thereof.—[The Andaman and Nicobar Islands Regulation, 1876—Reg. III of 1876, s. 35.]

Jurisdiction and Penalties under Port Acts.

Jurisdiction and Penalties under Port Acts.

Jurisdiction as to offences committed within Calcutta.

328 (5*n*). Every charge of an offence against any provision of this Act, or of any rule, order, or bye-law made under the provisions of this Act, alleged to have been committed within the town of Calcutta, shall be heard and determined in a summary way by some police magistrate of Calcutta, according to the provisions of the law for the time being regulating the procedure of the court of such police magistrate.—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 79.]

Jurisdiction as to offences committed out of Calcutta.

328 (5*o*). Every charge of an offence against the provisions of this Act, or of any rule, order, or bye-law made under the provisions of this Act, alleged to have been committed out of Calcutta, may be heard and determined by any officer authorised to exercise any of the powers of a magistrate in the place in which such offence may be alleged to have been committed, and the provisions of the Code of Criminal Procedure shall apply to the trial of every such charge.—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 80.]

Offences how triable, and penalties how recovered.

328 (5*p*). All offences against this Act shall be triable by a magistrate: And any magistrate may, by warrant under his hand, cause the amount of any such penalty imposed upon the owner or master of any vessel, for any offence committed on board of such vessel, or in the management thereof, or otherwise in relation thereto, whereof such owner or master is convicted, to be levied by distress and sale of such vessel, and the tackle, apparel, and furniture thereof, or so much thereof as is necessary.—[Indian Ports Act, 1875—Act XII of 1875, s. 66.]

Costs of convictions.

328 (5*q*). In case of any conviction under this Act, the convicting magistrate may order the offender to pay the costs of such conviction, in addition to any fine or expenses to which he may be liable.

Such costs may be assessed by the magistrate, and may be levied and recovered in the same manner as any fine under this Act.—[Indian Ports Act, 1875—Act XII of 1875, s. 67.]

Damages, &c., payable under this Act, how.

328 (5*r*). Whenever any person is liable, under the provisions of this Act to pay any sum of money, damages or expenses not exceeding one thousand

rupees, the same may be recovered and levied in the same manner as any fine under this Act, and, if necessary, the amount thereof may be fixed and assessed by the magistrate before whom the case is tried.—[Indian Ports Act, 1875—Act XII of 1875, s. 68.]

Jurisdiction and Penalties under Port Act.

ascertained and recovered.

328 (*5s*). Whenever any fine, damages or expenses is or are levied under this Act by distress and sale, the costs of such distress and sale may be levied in addition to such fine, damages or expenses, and in the same manner.—[Indian Ports Act, 1875—Act XII of 1875, s. 69.]

Costs of distress.

328 (*5t*). If any dispute arise concerning the amount leviable by any distress or arrest under this Act, or the charges or costs payable under the last preceding section, the person making such distress or using such arrest may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied has been determined by a magistrate, who, upon application made to him for that purpose, may determine such amount, and award such costs to be paid by either of the parties to the other of them as he thinks reasonable; and payment of such costs, if not paid on demand shall be enforced in the same manner as any penalty under this Act.—[Indian Ports Act, 1875—Act XII of 1875, s. 70.]

Magistrate to determine the amount to be levied in case of dispute.

328 (*5u*). Any person offending against the provisions of this Act, in any port, river or channel subject to this Act, shall be punishable by any magistrate having jurisdiction over any district or place adjoining such port, river or channel, or adjoining either side of that part of the river or channel in which such offence is committed.

Jurisdiction over offences beyond local limits of jurisdiction.

Such magistrate may exercise all the powers of a magistrate under this Act in the same manner and to the same extent as if the offence had been committed locally within the limits of his jurisdiction, notwithstanding the offence may not have been committed locally within such limits; and in case any such magistrate exercise the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.—[Indian Ports Act, 1875—Act XII of 1875, s. 71.]

328 (*5v*). No conviction, order, or judgment of any magistrate under this Act shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state, on the face of the conviction, order, or judgment the evidence on which it proceeds.

Conviction to be quashed on merits only.

Form of conviction.

If no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.—[Indian Ports Act, 1875—Act XII of 1875, s. 72.]

328 (*5w*). Whoever infringes any order issued under section twenty-one, twenty-two, or twenty-three,[1] or any condition prescribed under section twenty-five or thirty,[1] shall be punished with fine which may extend to one hundred

Infringement of sections 21, 22, 23, 25 or 30.

[1] See ss. 328 (*3o*), 328 (*3p*), 328 (*3q*), 328 (*3t*), and s. 30 of Act XV of 1879 allows private wharves to be erected under certain conditions.

rupees; and if the infringement be continuing, with a further fine which may extend to one hundred rupees for every day such order is infringed.—[Rangoon Port Commissioners' Act, 1879—Act XV of 1879, s. 72.]

Infringement of rules.

328 (*5x*). Whoever infringes any rule framed by the commissioners under section sixteen[1] shall be liable to a fine which may extend to fifty rupees; and if the infringement be continuing, to a further fine which may extend to ten rupees for every day after notice of such infringement has been given by the commissioners.—[Rangoon Port Commissioners' Act, 1879—Act XV of 1879, s. 73.]

Punishment in default of fine.

328 (*5y*). Whenever any person is sentenced to a fine under this Act, the convicting court may direct that, in default of payment of the fine, such person shall suffer simple imprisonment for a term which shall not exceed the following scale:—

(*a*) two months in the case of continuing infringement of section twenty-nine;[2]

(*b*) one month in the case of continuing infringement of sections twenty-one, twenty-two, and twenty-three;[3]

(*c*) fourteen days if the fine does not exceed fifty rupees;

(*d*) one month if the fine does not exceed one hundred rupees;

(*e*) two months if the fine exceeds one hundred rupees.—[Rangoon Port Commissioners' Act, 1879—Act XV of 1879, s. 74.]

Prosecutions.

328 (*5z*). Prosecutions under this Act may be instituted by the commissioners or any person authorised by them in this behalf and not otherwise.—[Rangoon Port Commissioners' Act, 1879—Act XV of 1879, s. 75.]

Recovery of dues as arrears.

328 (*6a*). All fees and sums due on account of property for the time being vested in the commissioners, and all arrears of tolls, charges, rates, and dues imposed under this Act, may be recovered as if they were arrears of land-revenue, in addition to the other modes hereinbefore provided.—[Rangoon Port Commissioners' Act, 1879—Act XV of 1879, s. 77.]

Recovery of penalties.

328 (*6b*). All complaints as to offences against this Act shall be heard and determined by a magistrate within whose local jurisdiction the offence may be alleged to have been committed; and the provisions for the recovery of fines contained in ss. 64, 65, 66, and 67 of Act XLV of 1860 (the Indian Penal Code) and in s. 307 of the Code of Criminal Procedure shall apply to all fines and penalties imposed under this Act by any magistrate in any port other than the port of Calcutta; and the provisions of Act IV of 1866 passed by the Lieutenant-Governor of Bengal in Council, and every other Act for regulating the police of the town of Calcutta, in force for the time being, shall apply to all fines and penalties imposed under this Act by any magistrate of police for the town of Calcutta.—[Ships in Port—Ben. Act III of 1867, s. 17.]

[1] See s. 328*c*.

[2] S. 29 prohibits the erection of private wharves.

[3] See ss. 328 (*5o*), 328 (*5p*), 328 (*5r*).

Jurisdiction and Penalties under Port Act.

328 (*6c*). All penalties levied under this Act shall be applied as fines received under the said Indian Ports Act, 1875.—[Shipping in Port—Bom. Act III of 1867, s. 13.]

Penalties how disposed of.

Powers, privileges and liabilities of officers who collect fees.

328 (*6d*). The officers and persons whose duty it may be to levy fees under this Act shall have the same powers for collecting and enforcing payment of the same as are exercisable under the provisions of any law for the time being in force in respect of duties of sea-customs by the collector of Customs and his subordinates, and shall have the same privileges and be subject to the same liabilities in respect of anything done by them in collecting and enforcing payment of the said fees as the said collector of Customs and his subordinates have, or are liable to, under the provisions of any such law.

Fine for offences.

The law for the time being in force for the punishment of offences relating to the levy or payment of duties of sea-customs, and for the reward of informers, shall, as far as may be, apply to similar offences committed in respect of the said fees.—[The Karachi Landing and Wharfage Fees Act, 1879—Bom. Act III of 1879, s. 5.]

Canals and Canal Tolls.

Canal and Canal Tolls.

When navigable channels may be declared subject to provisions of this Act.

328 (*6e*). It shall be lawful for the Lieutenant-Governor of Bengal, from time to time, by notification to that effect published in the *Calcutta Gazette*, to declare that the provisions of this Act shall apply to any navigable channel specified in such notification, and from and after such publication the provisions of this Act shall apply to, and be in force as regards, such navigable channel, and such of the Regulations and Acts specified in the schedule to this Act as were applicable to such navigable channel, shall thenceforth cease to have any force or effect as respects such channel.[1]

SCHEDULE OF REGULATIONS AND ACTS.

(*Referred to in Section 2.*)

Regulation XVIII of 1806	For collecting a toll on boats passing through the Eastern Canal which connects the River Hugli with the Sundarbans, and through the Canals commonly called the Bánká Náláh, the Kunjpur Khál, the Gowá Khál and Náráyanpur Khál.
Regulation VIII of 1824	For rescinding Regulation IV of 1818, for determining the rate of navigable tolls to be levied on boats, rafts, timbers and the like passing through the Bhagirathi, Jalangi, Ichhamati, Mathabhanga and Churni Rivers, and for providing for the better collection of the toll and for the secure navigation of the aforesaid and other rivers.
Act XXII of 1836	Relating to the levy of a toll on boats, floats and rafts, passing through the Circular and Eastern Canals.
Act X of 1839	To amend Act XXII of 1836.
Act XV of 1860	To amend and extend Act XXII of 1836.

[1] See *Calcutta Gazette*, 8th April 1868, pp. 512—514.

Canals and Canal Tolls.

Tolls to be paid on lines of navigation subject to Act.

[The Canals Act, 1864—Ben: Act V of 1864, s. 2.]

328 (*6f*). Tolls at such rates as shall be fixed in manner hereinafter mentioned shall be paid in respect of all vessels entering upon, or passing along, any of the lines of navigation subject to the provisions of this Act:

Provisio.

Provided that such tolls shall be payable only so long as such line of navigation shall be open.—[The Canals Act, 1864—Ben: Act V of 1864, s. 5.]

Lieutenant-Governor may fix and alter rates of tolls.

328 (*6g*). The Lieutenant-Governor of Bengal may fix, and from time to time alter, the rates at which such tolls shall be levied:

Provided that no tolls shall be levied, and no alteration of any rate of toll shall have effect, until notice shall have been published in the *Calcutta Gazette*, for such period as the said Lieutenant-Governor may fix, of the intention to levy or alter such toll, and of the rate and place at which such toll is to be levied.—[The Canals Act, 1864—Ben: Act V of 1864, s. 6.]

Publication of rates of toll at every toll-house.

328 (*6h*). Notification of the rates of toll and of the places of collection shall be at all times exhibited to public view at every toll-house where toll is levied under this Act, in the English, Urdu, and Bengali languages.—[The Canals Act, 1864—Ben: Act V of 1864, s. 7.]

Recovery of tolls by seizure.

328 (*6i*). If any toll due under the provisions of this Act in respect of any vessel shall not be paid on demand to the person authorised to collect the same, it shall be lawful for such person to seize such vessel, and any furniture thereof, and to detain the same; and such person shall, within twenty-four hours of such seizure and detention, report the same to the nearest collector or deputy collector of the district in which the seizure has been made, or other public officer duly authorised by Government in that behalf; and on receipt of this report the collector, deputy collector or other officer as aforesaid shall publish a notice appointing a day for the sale of the said vessel and any furniture thereof.

The sale shall be held at some period not less than fifteen days from the date of the publication of notice of sale; and if the toll and also any expenses occasioned by non-payment be not paid, or sufficient cause for non-payment be not shown, at or before the time of sale to the collector, deputy collector or other officer as aforesaid, such officer shall sell the vessel and furniture seized, or so much thereof as may be necessary to pay the toll and also any expenses occasioned by non-payment.

So much of the property seized as may not have been sold, and so much of the sale proceeds as may be in excess of the sum necessary for satisfying the toll and for defraying the expenses occasioned by non-payment, shall be returned to the person in charge of the vessel.—[The Canals Act, 1864—Ben: Act V of 1864, s. 9.]

Penalty for evasion of toll.

328 (*6j*). Any person who shall refuse or evade, or attempt to evade, any toll due under this Act shall be punished, on conviction before a magistrate, with a fine which may extend to fifty rupees, or with simple imprisonment in lieu of fine which may extend to one month.—[The Canals Act, 1864—Ben: Act V of 1864, s. 10.]

Canals and Canal Tolls.

Rules relating to lines of navigation.

328 (*6k*). It shall be lawful for the Lieutenant Governor of Bengal from time to time to make rules not repugnant to any law in force, and to repeal, alter and amend the same, for the management of any line of navigation subject to this Act, and for regulating the conduct of persons employed for any of the purposes of this Act; and the Lieutenant-Governor may affix fines as penalties for the infringement of such rules not exceeding fifty rupees for any one infringement, or five rupees a day for any continuing infringement.

Such rules may contain directions for any of the following amongst other matters:—

For determining the tonnage of vessels and their measurement; for fixing the number and the width of vessels to be allowed to pass into, or out of, or through, any line of navigation at one time or abreast; for determining the length of time during which vessels may remain stationary on any line of navigation and the amount of demurrage to be paid by vessels remaining stationary beyond such time; for regulating the mode in which and the places at which tolls are to be levied under this Act; for the removal of sunken vessels and obstructions; and for the storing and disposal of the cargo of vessels seized under this Act.[1]—[The Canals Act, 1864—Ben: Act V of 1864, s. 11.]

Appointment of supervisor with power to remove obstructions.

328 (*6l*). It shall be lawful for the Government of Bengal to appoint any person to be the supervisor of any line of navigation subject to the provision of this Act, and such person shall be empowered to cut down and remove any tree which may have fallen or may be likely to fall into such line of navigation, and to remove any sunken vessel, and to prevent or remove any other nuisance or obstruction to navigation, of whatever description, whenever he may think it necessary.—[The Canals Act, 1864—Ben: Act V of 1864, s. 13.]

Penalty for causing obstruction to lines of navigation.

328 (*6m*). Any person who shall wilfully[2] cause or shall aid in causing any obstruction to any line of navigation, or any damage to the banks or works of such line of navigation, or who shall wilfully omit to remove such obstruction after being lawfully required so to do, shall be punished on conviction before a magistrate with simple imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both, and shall also be liable to pay such fine as may be sufficient to meet all reasonable expenses incurred in abating or removing such obstruction, or in repairing such damage.—[The Canals Act, 1864—Ben: Act V of 1864, s. 16.]

Mischief by injury to public road, bridge, or river.

328 (*6n*). Whoever commits mischief by doing any Act which renders, or which he knows to be likely to render, any public road, bridge, navigable river or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of

[1] See *Calcutta Gazette*, 21st June 1875, p. 1114; *ibid.*, 19th December 1866, p. 2158; *ibid.*, 30th April 1873, p. 550; *ibid.*, 18th June 1873, Part I, p. 760; *ibid.*, 23rd February 1876, p. 192; *ibid.*, 17th May 1876, Part I, p. 510.

[2] 2 B. L. R., Cr. 23.

Canals and Canal Tolls.

either description for a term which may extend to five years, or with fine, or with both.—[Indian Penal Code—Act XLV of 1860, s. 431.]

Recovery of fines.

328 (*6o*). All fines imposed by this Act may be recovered in the manner prescribed by the Code of Criminal Procedure.—[The Canals Act, 1864—Ben: Act V of 1864, s. 17.]

Offences by whom punishable.

328 (*6p*). If any person shall be guilty of an offence against the provisions of this Act on any line of navigation subject to this Act, such offence shall be punishable by any magistrate having jurisdiction over any district or place adjoining such line of navigation, or adjoining either side of that part of the line of navigation in which such offence shall be committed: and such magistrate may exercise all the powers of a magistrate under this Act, in the same manner, and to the same extent, as if such offence had been committed locally within the limits of his jurisdiction, notwithstanding the offence may not have been committed locally within such limits; and in case any such magistrate shall exercise the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.—[The Canals Act, 1864—Ben: Act V of 1864, s. 18.]

Carriage of Dangerous Goods.

Carriage of Dangerous Goods.

Dangerous cargo.

329. *No person shall be entitled to carry in any ship, or to require the master or owner of any ship to carry therein, any aqua-fortis, oil of vitriol, gunpowder, or any other goods which, in the judgment of such master or owner, are of a dangerous nature; and if any person carries or sends by any ship any goods of a dangerous nature without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the master or owner at or before the time of carrying or sending the same to be shipped, he shall for every such offence incur a penalty not exceeding one hundred pounds; and the master or owner of any ship may refuse to take on board any parcel that he suspects to contain goods of a dangerous nature, and may require them to be opened to ascertain the fact*—[Repealed by Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 33.]

Restrictions on carriage of dangerous goods.

329*a*. If any person sends or attempts to send by, or, not being the master or owner of the vessel, carries or attempts to carry in, any vessel, British or foreign, any dangerous goods; (that is to say) aqua-fortis, vitriol, naptha, benzine, gunpowder, lucifer matches, nitroglycerine, petroleum, or any other goods of a dangerous nature, without distinctly marking their nature on the outside of the package containing the same, and giving written notice of the nature of such goods and of the name and address of the sender or carrier thereof to the master or owner of the vessel at or before the time of sending the same to be shipped or taking the same on board the vessel, he shall for every such offence incur a penalty not exceeding one hundred pounds: provided that if such person show that he was merely an agent in the shipment

of any such goods as aforesaid, and was not aware and did not suspect, and had no reason to suspect, that the goods shipped by him were of a dangerous nature, the penalty which he incurs shall not exceed ten pounds.—[Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 23.] Carriage of Dangerous Goods.

329*b*. If any person knowingly sends or attempts to send by, or carries or attempts to carry in, any vessel, British or foreign, any dangerous goods or goods of a dangerous nature, under a false description, or falsely describes the sender or carrier thereof, he shall incur a penalty not exceeding five hundred pounds.—[Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 24.] Penalty for false description of dangerous goods.

329*c*. The master or owner of any vessel, British or foreign, may refuse to take on board any package or parcel which he suspects to contain goods of a dangerous nature, and may require it to be opened to ascertain the fact.—[Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 25.] Power to refuse to receive goods suspected of being dangerous.

329*d*. Where any dangerous goods as defined in this Act, or any goods, which, in the judgment of the master or owner of the vessel, are of a dangerous nature, have been sent or brought aboard any vessel, British or foreign, without being marked as aforesaid, or without such notice having been given as aforesaid, the master or owner of the vessel may cause such goods to be thrown overboard, together with any package or receptacle in which they are contained; and neither the master nor the owner of the vessel shall, in respect of such throwing overboard, be subject to any liability, civil or criminal, in any court.—[Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 26.] Power to throw overboard dangerous goods.

329*e*. Where any dangerous goods have been sent or carried, or attempted to be sent or carried, on board any vessel, British or foreign, without being marked as aforesaid, or without such notice having been given as aforesaid, and where any such goods have been sent or carried, or attempted to be sent or carried, under a false description, or the sender or carrier thereof has been falsely described, it shall be lawful for any court having Admiralty jurisdiction to declare such goods, and any package or receptacle in which they are contained, to be, and they shall thereupon be, forfeited, and when forfeited shall be disposed of as the court directs. Forfeiture of dangerous goods shipped in breach.

The court shall have and may exercise the aforesaid powers of forfeiture and disposal, notwithstanding that the owner of the goods have not committed any offence under the provisions of this Act relating to dangerous goods, and be not before the court, and have not notice of the proceedings, and notwithstanding that there be no evidence to show to whom the goods belong; nevertheless the court may, in its discretion, require such notice as it may direct to be given to the owner or shipper of the goods before the same are forfeited.—[Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 27.]

329*f*. The provisions of this Act relating to the carriage of dangerous goods shall be deemed to be in addition to and not in substitution for or in restraint of any other enactment for the like object, so nevertheless that nothing in the said provisions shall be deemed to authorise that any person be Saving for Dangerous Goods Act.

Carriage of Dangerous Goods.

Penalty for carrying deckloads of timber in winter.

sued or prosecuted twice in the same matter.—[Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 28.]

329*q*. After the first day of November one thousand eighth hundred and seventy-six, if a ship, British or foreign, arrives between the last day of October and the sixteenth day of April in any year at any port in the United Kingdom from any port out of the United Kingdom, carrying as deck cargo, that is to say, in any uncovered space upon deck, or in any covered space not included in the cubical contents forming the ship's registered tonnage, any wood goods coming within the following descriptions (that is to say)—

(*a*) any square, round, waney, or other timber, or any pitch pine, mahogany, oak, teak, or other heavy wood goods whatever; or

(*b*) any more than five spare spars or store spars, whether or not made, dressed, and finally prepared for use; or

(*c*) any deals, battens, or other light wood goods of any description to a height exceeding three feet above the deck;

the master of the ship, and also the owner, if he is privy to the offence, shall be liable to a penalty not exceeding five pounds for every hundred cubic feet of wood goods carried in contravention of this section, and such penalty may be recovered by action or on indictment or to an amount not exceeding one hundred pounds (whatever may be the maximum penalty recoverable) on summary conviction:

Provided that a master or owner shall not be liable to any penalty under this section—

(1) in respect of any wood goods which the master has considered it necessary to place or keep on deck during the voyage on account of the springing of any leak, or of any other damage to the ship received or apprehended; or

(2) if he proves that the ship sailed from the port at which the wood goods were loaded as deck cargo at such time before the last day of October as allowed a sufficient interval according to the ordinary duration of the voyage for the ship to arrive before that day at the said port in the United Kingdom, but was prevented from so arriving by stress of weather or circumstances beyond his control; or

(3) if he proves that the ship sailed from the port at which the wood goods were loaded as deck cargo at such time before the sixteenth day of April as allowed a reasonable interval according to the ordinary duration of the voyage for the ship to arrive after that day at the said port in the United Kingdom, and by reason of an exceptionally favourable voyage arrived before that day.

Provided further that nothing in this section shall affect any ship not bound to any port in the United Kingdom which comes into any port of the United Kingdom under stress of weather, or for repairs, or for any other

purpose than the delivery of her cargo.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80,[1] s. 24.]

Carriage of Dangerous Goods.

Obligation to take precautions to prevent grain cargo from shifting.

329*h*. Where a grain cargo is laden on any British ship all necessary and reasonable precautions (whether prescribed by this Act or not) shall be taken in order to prevent the grain cargo from shifting.

If such precautions have not been taken in the case of any such ship, the master of the ship and any agent of the owner who was charged with the loading of the ship or the sending her to sea shall each be liable to a penalty not exceeding three hundred pounds, and the owner of the ship shall also be liable to the same penalty, unless he shows that he took all reasonable means to enforce the observance of this section, and was not privy to the breach thereof.—[Merchant Shipping (Carriage of Grain) Act, 1880, 43 & 44 Vic., c. 43, s. 3.]

Precautions against shifting of grain cargo laden in port in Mediterranean or Black Sea, or on coast of North America.

329*i*. Where a British ship laden with a grain cargo at any port in the Mediterranean or Black Sea is bound to ports outside the Straits of Gibraltar, or where a British ship is laden with a grain cargo on the coast of North America, the following precautions to prevent the grain cargo from shifting shall be adopted (that is to say)—

(*a*) There shall not be carried between the decks, or, if the ship has more than two decks, between the main and upper decks, any grain in bulk, except such as may be necessary for feeding the cargo in the hold, and is carried in properly constructed feeders.

(*b*) Where grain (except such as may be carried in properly constructed feeders) is carried in bulk in any hold or compartment, and proper provision for filling up the same by feeders is not made, not less than one-fourth of the grain carried in the hold or compartment (as the case may be) shall be in bags supported on suitable platforms laid upon the grain in bulk: Provided that this regulation with respect to bags shall not apply—

(i) to oats, or cotton seed; nor

(ii) to a ship which is a sailing ship of less than four hundred tons registered tonnage, and is not engaged in the Atlantic trade; nor

(iii) to a ship laden at a port in the Mediterranean or Black Sea if the ship is divided into compartments which are formed by substantial transverse partitions, and are fitted with longitudinal bulkheads or such shifting boards as hereafter in this section mentioned, and if the ship does not carry more than one-fourth of the grain cargo, and not more than one thousand five hundred quarters, in any one compartment, bin, or division, and provided that each division of

[1] Nothing in 39 & 40 Vic., c. 80, applies to any vessel employed exclusively in trading or going from place to place in any river or inland water of which the whole or part is any British possession, or the provisions of the Act relating to deck cargo does not apply to deck cargo carried by a ship while engaged in the coasting trade of any British possession.—[39 & 40 Vic., c. 80, s. 44.]

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the lower hold is fitted with properly constructed feeders from the 'tween decks; nor

(iv) to a ship in which the grain cargo does not exceed one-half of the whole cargo of the ship, and the rest of the cargo consists of cotton, wool, flax, barrels or sacks of flour, or other suitable cargo so stowed as to prevent the grain in any compartment, bin, or division from shifting.

(*c*) Where grain is carried in the hold or between the decks, whether in bags or bulk, the hold or the space between the decks shall be divided by a longitudinal bulkhead or by sufficient shifting boards which extend from deck to deck or from the deck to the keelson and are properly secured, and if the grain in the bulk are fitted grain-tight with proper fillings between the beams.

(*d*) In loading, the grain shall be properly stowed, trimmed, and secured.

In the event of the contravention of this section in the case of any ship, reasonable precautions to prevent the grain cargo of that ship from shifting shall be deemed not have been taken, and the owner and master of the ship and any agent charged with loading her or sending her to sea shall be liable accordingly to a penalty under this Act:

Provided that nothing in this section shall exempt a person from any liability, civil or criminal, to which he would otherwise be subject for failing to adopt any reasonable precautions which, although not mentioned in this section, are reasonably required to prevent grain cargo from shifting.—[Merchant Shipping (Carriage of Grain) Act, 1880, 43 & 44 Vic., c. 43, s. 4.]

Exemption from precautions specified in this Act for ships laden in Mediterranean or Black Sea or on coast of North America.

329*j*. The precautions required by this Act to be adopted by ships laden with a grain cargo at a port in the Mediterranean or Black Sea, or on the coast of North America, shall not apply to ships loaded in accordance with regulations for the time being approved by the Board of Trade; nor to any ship constructed and loaded in accordance with any plan approved by the Board of Trade.—[Merchant Shipping (Carriage of Grain) Act, 1880, 43 & 44 Vic., c. 43, s. 5.]

Notice by master of kind and quantity of grain cargo.

329*k*. Before a British ship laden with grain cargo at any port in the Mediterranean or Black Sea, bound to ports outside the Straits of Gibraltar, or laden with grain cargo on the coast of North America, leaves her final port of loading, or within forty-eight hours after leaving such port, the master shall deliver or cause to be delivered to the British Consular officer, or, if it is in Her Majesty's dominions, to the principal officer of Customs at that port, a notice stating—

(1) the draught of water and clear side, as defined by section five of the Merchant Shipping Act, 1871, and section four of the Merchant Shipping Act, 1873, of the said ship after the loading of her cargo has been completed at the said last port of loading;

(2) and also stating the following particulars in respect to the grain cargo; namely,—

(*a*) the kind of grain and the quantity thereof, which quantity may be stated in cubic feet, or in quarters, or bushels, or in tons weight; and

(*b*) the mode in which the grain cargo is stowed; and

(*c*) the precautions taken against shifting.

Carriage of Dangerous Goods.

The master shall also deliver a similar notice to the principal collector or other proper officer of Customs in the United Kingdom, together with the report required to be made by the Customs Consolidation Act, 1876, on the arrival of the ship in the United Kingdom.

39 & 40 Vic., c. 36, ss. 60, 61.

Every such notice shall be sent to the Board of Trade as soon as practicable by the officer receiving the same.

If the master fails to deliver any notice required by this section, he shall be liable to a penalty not exceeding one hundred pounds: Provided always that the Board of Trade may, by notice published in the *London Gazette*, or in such other way as it may deem expedient, exempt ships laden at any particular port or any class of such ships from the provisions of this section.—[Merchant Shipping (Carriage of Grain) Act, 1880, 43 & 44 Vic., c. 43, s. 6.]

Penalty for false statement in notice.

329*l*. Any master of a ship, who in any notice required by this Act wilfully makes any false statement or wilfully omits any material particular, shall be liable to a penalty not exceeding one hundred pounds.—[Merchant Shipping (Carriage of Grain) Act, 1880, 43 & 44 Vic., c. 43, s. 7.]

Power of Board of Trade for enforcing of Act. 17 & 18 Vic., c. 104.

329*m*. For the purpose of securing the observance of this Act, any officer having authority in that behalf from the Board of Trade, either general or special, shall have the same power as an inspector appointed under the Merchant Shipping Act, 1854, and shall also have power to inspect any grain cargo, and the mode in which the same is stowed.—[Merchant Shipping (Carriage of Grain) Act, 1880, 43 & 44 Vic., c. 43, s. 8.]

Prosecution of offences and recovery of penalties. 17 & 18 Vic., c. 104.

329*n*. Every offence punishable under this Act may be prosecuted summarily and every penalty under this Act may be recovered and enforced summarily, in like manner as offences and penalties under the Merchant Shipping Act, 1854, and the Acts amending the same.—[Merchant Shipping (Carriage of Grain) Act, 1880, 43 & 44 Vic., c. 43, s. 9.]

Definitions.

329*o*. For the purposes of this Act—

The expression "grain" means any corn, rice, paddy, pulse, seeds, nuts, or nut-kernels.

The expression "ship laden with a grain cargo" means a ship carrying a cargo of which the portion consisting of grain is more than one-third of the registered tonnage of the ship; and such third shall be computed, where the grain is reckoned in measures of capacity, at the rate of one hundred cubic feet for each ton of registered tonnage, and where the grain is reckoned in measures of weight, at the rate of two tons weight for each ton of registered tonnage.—[Merchant Shipping (Carriage of Grain) Act, 1880, 43 & 44 Vic., c. 43, s. 10.]

As to dangerous cargoes in ports, see "rules for safety of shipping in ports," ss. 328n, 328r, and as to petroleum s. 328x, 328(lb).

Tonnage of cargo of grain, &c.

329*p*. No cargo of which more than one-third consists of any kind of grain, corn, rice, paddy, pulse, seeds, nuts, or nut-kernels (hereinafter referred to as

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grain-cargo) shall be carried on board any British Indian ship, unless the same be contained in bags, sacks or barrels, or secured from shifting by boards or bulkheads or otherwise.

Penalty for shipping or stowage of such cargo.

If the owner or master of any ship, or any agent of such owner who is charged with the loading of such ship or the sending her to sea, knowingly allows any grain-cargo or part of a grain-cargo to be shipped therein for carriage contrary to the provisions of this section, he shall be punished with fine which may extend to three thousand rupees.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 32.]

EMIGRATION AND EMIGRANT SHIPS.

Appointment of Emigration Officers.

Appointment of Emigration Officers.

Appointment of Emigration Agents.

329 (*1a*). The Government of every place[1] to which emigration is lawful under this Act may, from time to time, appoint a person to act as emigration agent in Calcutta, Madras, and Bombay respectively, but such nomination shall be subject to the approval of the Local Government.

Every emigration agent may be suspended or removed by the Government which appointed him.—[Indian Emigration Act, 1871—Act VII of 1871, s. 4.]

Places for emigration to which contracts may be made with Natives.

[1] Contracts may be made with natives of India to emigrate—

to any of the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts and Seychelles;

to any of the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana, and to the Danish Colony of St. Croix;

and it shall be lawful to enable or assist any native of India to emigrate to any such Colony.

Power to legalize emigration to other places.

The Governor General in Council may, from time to time, by notification published in the *Gazette of India*, declare that the emigration of natives of India shall be lawful to any place other than the places mentioned in section twenty-three;

Proviso.

provided that every such notification contain also a declaration that the Governor General in Council has been duly certified that the Government of the place to which the notification refers has made such laws and other provisions as the Governor General in Council thinks sufficient for the protection of natives of India emigrating to such place.

Contracts may be made for emigration to such other places.

From the date of any such notification, contracts may be made with any native of India for labour to be performed in any place to which emigration is authorised in the notification, and it shall be lawful to enable or assist any native of India to emigrate to such place;

but all contracts and emigration under such notification shall be made and conducted subject to the provisions of this Act.

From what ports emigration lawful.

Emigration shall not be lawful except from the port of Calcutta, the port of Madras, or the port of Bombay.—[Indian Emigration Act—Act VII of 1871, ss. 23, 24, 25.]

N.B.—In addition to these places, the Governor General has declared emigration of natives lawful to the Netherlands Colony of British Guiana [*Gazette of India*, 9th November 1872, page 1032], and to the Island of Nevis.—[*Gazette of India*, 19th April 1873, page 378.]

329 (*1b*). The Local Government may appoint a proper person to act as protector of emigrants at each of the three ports aforesaid, and may, with the sanction of the Governor General in Council, assign to such person such salary and establishment as shall be deemed proper. Appointment of Emigration Officers. Appointment of protectors of emigrants.

Every protector of emigrants may be suspended or removed by the Local Government to which he is subordinate.—[Indian Emigration Act, 1871[1]—Act VII of 1871, s. 6.]

329 (*1c*). At each of the three ports aforesaid the Local Government may appoint a competent person to be medical inspector of emigrants; and may, with the sanction of the Governor General in Council, assign to the medical inspector so appointed such salary as is deemed proper.—[Indian Emigration Act, 1871—Act VII of 1871, s. 9.] Appointment of medical inspector.

329 (*1d*). The Government of the Straits Settlements may, from time to time, appoint such persons as the Governor of Fort Saint George in Council approves to act as emigration agents at such ports as aforesaid. Appointment of emigration agents.

Any emigration agent so appointed may be suspended or removed by the Government of the Straits Settlements.—[The Straits Settlements Emigration Act, 1877—Act V of 1877, s. 4.]

329 (*1e*). The Governor of Fort Saint George in Council shall direct such persons as he thinks fit to act as protectors of emigrants under this Act at such ports and for such local areas as may be assigned to them respectively, and may, with the sanction of the Governor General in Council, assign to such persons such establishment as the Governor of Fort Saint George in Council thinks fit.—[The Straits Settlements Emigration Act, 1877[2]—Act V of 1877, s. 5.] Appointment of protectors of emigrants.

329 (*1f*). The Local Government may appoint, either by name or by virtue of their office, so many persons as it think necessary to be superintendents of emigration, registering officers, embarkation agents, debarkation agents, inspectors of labourers, assistant inspectors of labourers and medical inspectors under this Act respectively, and, with respect to any such officer, may, subject to the control of the Governor General in Council, declare the local area situate in the territories subject to its administration within which he shall exercise the powers and perform the duties conferred and imposed upon him by this Act or any rule made hereunder. Appointment of officers.

The Local Government may suspend or remove any persons whom it so appoints.

Every person so appointed shall be deemed a public servant within the

[1] The Indian Emigration Act, 1871, does not apply to the Straits Settlements until the Governor General shall declare it so to do.—[Act V of 1877, s. 51.]

[2] This Act extends only to the territories under the Governor of Fort St. George in Council, and does not apply to any vessel in the service of the local commissioners of the Admiralty, or to any of Her Majesty's vessels or to contracts with native seamen and menial servants.—[Act V of 1877, s. 1, 48 & 49.]

Appointment of Emigration Officers.

meaning of the Indian Penal Code.—[Inland Emigration Act, 1882[1]—Act I of 1882, s. 8.]

As to appointment of emigration officers for French colonies, see ss. 329 (4w) and 329 (4x).

Duties of Emigration Officers.

Duties of Emigration Officers.

General duties of protectors of emigrants.

329 (*1g*). Every protector of emigrants, in addition to any special duties assigned to him by this Act, shall, so far as is in his power, generally protect and aid with his advice or otherwise all emigrants, and shall cause all the provisions of this Act to be duly complied with.

Inspecting vessels with return-emigrants.

He shall also inspect on arrival all vessels bringing return-emigrants to the port at which he is protector, and enquire into the treatment received by such emigrants both during the period of their service in the place to which they emigrated and also during the voyage, and shall make a report thereon to the Local Government,

and he shall aid and advise such return-emigrants so far as he reasonably can when called upon by them to do so.—[Indian Emigration Act, 1871—Act VII of 1871, s. 8.]

And to have facilities for inspection.

329 (*1h*). Every emigration agent, and all persons in charge of, or employed in, any depôt, or in any vessel licensed to carry emigrants as hereafter provided, shall give the protector and the medical inspector every facility for making such inspections, examinations and surveys as may be necessary or proper under this Act, and shall afford them all such information as may be reasonably required by them.—[Indian Emigration Act, 1871—Act VII of 1871, s. 15.]

General duties of protector.

329 (*1i*). Every protector of emigrants, in addition to any special duties assigned to him by this Act, shall, so far as is in his power, protect and aid all emigrants with his advice or otherwise, and cause all the provisions of this Act to be duly complied with.

Inspection of vessels with return-emigrants.

He may also inspect on arrival all vessels bringing return-emigrants to the port at which he is protector, and inquire into the treatment received by such emigrants both during the period of their service in the Straits Settlements and also during the voyage, and shall make a report thereon to the Governor of Fort St. George in Council. Such protector shall also aid and advise such return-emigrants so far as he reasonably can, when called upon by them to do so.—[Straits Settlements Emigration Act, 1877—Act V of 1877, s. 6.]

Duty of assistant inspector.

329 (*1j*). An assistant inspector shall perform all such duties and exercise all such powers of an inspector as he is authorised in writing by the inspector to perform or exercise.—[Inland Emigration Act, 1882—Act I of 1882, s. 194.]

Powers of Local Government and officers.

329 (*1k*). All powers conferred by this Act on the Local Government or on any superintendent, medical inspector, emigration agent or other officer, may

[1] This Act extends to the territories respectively administered by the Lieutenant-Governors of Bengal and the North-Western Provinces and Chief Commissioners of Oudh and Assam.—[Act I of 1882, s. 1.]

be exercised from time to time as occasion requires.—[Inland Emigration Act, 1882—Act I of 1882, s. 195.]

Duties of Emigration Officers.

Exercisable from time to time.

Emigration Officers to be Public Servants.

Emigration Officers are Public Servants.

329 (*1l*). Every protector of emigrants and every medical inspector of emigrants shall be a public servant within the meaning of the Indian Penal Code.—[Indian Emigration Act—Act VII of 1871, s. 14.]

Protectors and medical inspectors to be public servants.

329 (*1m*). The emigration agent and all persons employed by him and the protector of emigrants shall be deemed to be public servants within the meaning of the Indian Penal Code.—[Straits Settlements Emigration Act, 1877—Act V of 1877, s. 50.]

Emigration agent, and his subordinates and protector of emigrants to be public servants.

Emigrant Vessels.

Emigrant Vessels.

329 (*1n*). (1) It shall not be lawful to receive any emigrant on board any vessel unless a license to carry emigrants in such vessel has been obtained from the Local Government. The granting or withholding of any such license shall be in the discretion of the Local Government.

Emigrant not to be received on board unlicensed vessels.

(2) The master or owner of any vessel who desires to obtain a license to carry emigrants in such vessel shall apply in writing through the protector of emigrants to the Local Government for such license.

Application for license.

(3) Every such application shall state the number of men, women, and children proposed to be carried, and the tonnage and other particulars respecting the vessel.

Contents of license.

(4) The protector of emigrants shall cause the vessel to be carefully surveyed by a competent person, with a view to ascertain her sea-worthiness and the extent and nature of her accommodation for emigrants, and to ascertain that she is properly ventilated and is supplied with all the tackle requisite for her voyage.

Survey of vessel.

(5) The protector of emigrants shall make a full report on the survey to the Local Government; and if he is of opinion that the vessel is in all respects suitable for the carrying of emigrants under this Act, but not otherwise, he shall give a certificate to that effect to the master of the vessel.

Report after survey, and certificate to master.

(6) In consideration of his obtaining a license to carry emigrants, the master of every vessel intended to carry emigrants shall, upon the requisition of the protector of emigrants, and before any emigrant embarks on board of such vessel, execute in duplicate a bond, in such form as the Local Government prescribes, binding himself and his owners in a penal sum of ten thousand rupees to conform to the several conditions in this Act provided. The protector of emigrants shall require the master to execute such bond as aforesaid in duplicate, and shall forward one copy of it to the Government of the place to which the emigrants are to be carried (or, in the case of a French colony, to the British Consular agent at such colony), and the other copy of

Bond to be executed by master.

Emigrant Vessels.

it to the Local Government.—[Indian Emigration Act, 1871[1]—Act VII of 1871, s. 40.]

Vessels to carry more than 20 passengers must be licensed.

329 (*Io*). No master shall receive more than twenty passengers being natives of India on board his vessel for the purpose of transporting them to a labour-district, unless a license to carry passengers in such vessel has been granted to him by an embarkation agent duly empowered in that behalf by the Local Government.

Power to exempt vessels.

The Local Government may, by notification in the official Gazette, exempt from the provisions of this section any vessel or class of vessels.—[Inland Emigration Act, 1882—Act I of 1882, s. 87.]

Application for license.

329 (*Ip*). The master or owner of any vessel who desires to obtain a license under this Act to carry passengers in such vessel shall make a written application for license to an embarkation agent empowered as aforesaid.

Contents of application.

Every such application shall state such particulars respecting the vessel as the Local Government may by rule prescribe.—[Inland Emigration Act, 1882—Act I of 1882, s. 88.]

Grant of license.

329 (*Iq*). If such embarkation agent is of opinion that the vessel is in all respects suitable for carrying passengers being natives of India to a labour-district, he shall give to the master of the vessel a license to carry passengers therein, specifying the number of passengers being natives of India which may be received on board.—[Inland Emigration Act, 1882—Act I of 1882, s. 89.]

Emigrants not to be received on board vessels not licensed under Native Passengers' Act, or without protector's certificate.

329 (*Ir*). No master or other person in charge of a vessel shall receive on board any emigrant, unless such vessel has been licensed under the law for the time being in force relating to the carriage by sea of native passengers to carry passengers for the intended voyage, and unless the master of such vessel has obtained a certificate from the protector of emigrants authorising him to receive on board the number of emigrants specified therein.

No such certificate shall be granted by the protector of emigrants, unless he has satisfied himself that the vessel has been licensed as aforesaid, and that provisions and water for the number of emigrants to be specified in the certificate according to the scale prescribed under such law have been actually put on board such vessel.—[Straits Settlements Emigration Act, 1877—Act V of 1877, s. 33.]

Fee for license.

329 (*Is*). Such fee, not exceeding sixteen rupees, as the Local Government may, with reference to the size of such vessel, by rule direct, shall be paid for

[1] The Act does not apply to any ships in the service of the Lords Commissioners of the Admiralty, or to any of Her Majesty's vessels (Act VII of 1871, s. 89), nor to the Straits Settlement, unless and until the Governor General in Council shall declare by notification that it does so apply.—[Act V of 1877, s. 51.]

NOTE.—The following sections contained in Chapter V of the Inland Emigration Act, 1882, do not apply to the transport by sea of natives of India to the labour-districts of Chittagong and the Chittagong Hill Tracts—see 329 (*Io*), 329 (*Ip*), 329 (*Iq*), 329 (*Is*), 329 (*It*), 329 (*Iv*), 329 (*Iw*), 329 (*Iz*), 329 (*2a*), 329 (*2q*), 329 (*2r*), 329 (*2s*), 329 (*2t*), 329 (*2u*), 329 (*2v*), 329 (*2w*), 329 (*2x*), 329 (*2y*), 329 (*2z*), 329 (*3a*), 329 (*3b*), (and section 107 of the Act which empowers the Local Government to make rules for disembarkation, &c.) [Act I of 1882, s. 86.]

every such license. No such license shall be in force for more than one voyage.

Emigrant Vessels.

Provided that the embarkation agent may, from time to time, with the previous sanction of the Local Government, grant a license to the master of any vessel for any term not exceeding one year, on payment of such fee not exceeding one hundred rupees, and on such conditions as the Local Government may by rule direct.—[Inland Emigration Act, 1882—Act I of 1882, s. 90.]

Provision for annual licenses.

329 (*ii*). Any embarkation agent may, in accordance with such rule as the Local Government may prescribe in this behalf, direct by order in writing that, on any particular voyage or part of a voyage, any master licensed hereunder shall not receive on board his vessel more than a specified number of passengers being natives of India, which number shall be less than the number specified in the license granted to such master.—[Inland Emigration Act, 1882—Act I of 1882, s. 91.]

Embarkation agent may limit number to be received on board on any particular voyage.

329 (*ii*). (1) No certificate under section 40 shall be granted, unless there be provided for the emigrants, either between decks or in cabins on the upper deck duly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

Space and accommodation required on board.

(2) No compartment shall take more than one adult emigrant for every twelve superficial feet on deck, and for every cubic space of seventy-two feet, or more than one child who has completed two and has not completed ten years of age for every eight superficial feet on deck.

(3) A distinct and separate place shall be fitted up for a hospital in every emigrant vessel.

(4) Women and children shall occupy a compartment of the vessel distinct and separate from the compartments of the single men.

(5) An emigrant above the age of ten years shall, for the purposes of this Act, count as an adult, and two children from one to ten years of age shall count as one adult.—[Indian Emigration Act, 1871—Act VII of 1871, s. 41.]

329 (*ii*). In computing the number of persons on board of any vessel, two children under the age of ten years shall, for the purposes of this Act, be reckoned as one person only.—[Inland Emigration Act, 1882—Act I of 1882, s. 92.]

Two children under ten to be counted as one person.

329 (*iv*). Every master to whom a license is granted hereunder shall keep such lists, submit such returns, and make such reports in regard to the passengers carried in his vessel as the Local Government may by rule prescribe.—[Inland Emigration Act, 1882—Act I of 1882, s. 93.]

Master to keep lists.

329 (*v*). (1) There shall be actually laden and on board of every vessel carrying emigrants, at the time of the departure of such vessel from the port at which they embark—

Provisions, fuel and water.

(*a*) good and wholesome provisions for the use and consumption of the said emigrants (over and above the victualling of the captain,

Emigration Vessels.

officers and crew, and of the cabin and other passengers, if any, in such quantity and of such description and quality as may be prescribed by any rule framed by the Governor General in Council under section fifty-six.

(*b*) fuel for cooking such provisions, and

(*c*) a supply of water, to the amount of seven gallons for every week of the probable length of the voyage for every emigrant on board such vessel. Such water shall be carried in tanks to be approved by the protector of emigrants.

Surgeon, medicines and stores.

(2) Every such vessel shall, at the time of departure aforesaid, have actually on board and shall carry with her a properly qualified European or Native surgeon, and such medicines and other stores in such quantity and of such quality as may be prescribed by rules made under section fifty-six.

Supply of water for vessels calling at intermediate port.

(3) When any vessel is destined to call at a port or place in the course of her voyage for the purpose of filling up her tanks, a supply of water at the rate hereinbefore mentioned for every week of the probable length of the voyage to such port or place shall be deemed to be a compliance with this section.

The probable length of the voyage to such port or place shall be determined from time to time by the protector of emigrants, subject to the approval of the Local Government.

Supply in vessel fitted with distilling apparatus.

(4) When any such vessel is fitted with Normandy's apparatus, or other apparatus approved by the protector of emigrants, for distilling sea-water, and with proper and sufficient means for working the same, a reduction shall be allowed of one-third in the quantity of water required under this section.

Protector and inspector of emigrants to ensure compliance with above provisions.

(5) The protector of emigrants and the medical inspector of emigrants shall see personally that all the provisions of this section are complied with.—[Indian Emigration Act, 1871—Act VII of 1871, s. 42.]

Supply of extra clothing.

329 (*1g*). Before any vessel carrying emigrants clears out for any place westward of the Cape of Good Hope between the first day of March and the fifteenth day of September, the protector of emigrants shall personally see that every emigrant is supplied with at least one extra double blanket, and that the same is placed with his other clothing or luggage.

Every emigrant shall be allowed to make use of such double blanket so long as the vessel is outside of the tropics.—[Indian Emigration Act, 1871—Act VII of 1871, s. 43.]

Provisions, clothing, medical and other officers, cooks, &c.

329 (*1e*). Every such master shall have on board his vessel carrying labourers and their dependents such supplies of provisions and clothing, and such medical and other officers, cooks and attendants, as the Local Government may by rule prescribe.—[Inland Emigration Act, 1882—Act I of 1882, s. 94.]

Medical officer to be licensed.

329 (*2a*). No medical officer shall be appointed to any vessel in respect of which a license is granted hereunder, unless he holds a license granted by such authority as the Local Government may appoint in that behalf; and any

medical officer so licensed shall be forthwith removed from his appointment on the requisition of any officer empowered by the Local Government to make such requisition.—[Inland Emigration Act, 1882—Act I of 1882, s. 95.]

Emigrant Vessel.

329 (*2b*). Before any vessel licensed to carry emigrants shall be cleared out from the port of Calcutta, Madras, or Bombay, the master of such vessel shall obtain from the protector of emigrants at the port of clearance, and from the emigration agent for the place to which the emigrants are intended to proceed, certificates, under the hands of such protector and emigration agent respectively, to the effect following, that is to say;—that such protector and emigration agent have, in respect of the emigrants proceeding in such vessel, done all that is hereinbefore required to be done on the part of such protector and emigration agent respectively; and that all the directions herein contained for ensuring the health, comfort, and safety of the emigrants have been duly complied with, as well as all such rules as the Governor General in Council from time to time frames under section fifty-six—[Indian Emigration Act, 1871—Act VII of 1871, s. 44.]

Certificates from protector of emigrants and from emigration agent.

Embarkation.

Embarkation.

329 (*2c*). If any emigrant without sufficient cause refuses or neglects to embark when called upon by the emigration agent so to do, it shall not be lawful to compel such emigrant to embark or to put him on board-ship against his will, or to detain him against his will at the depôt or elsewhere; but nothing in this section shall diminish or affect the civil or criminal liabilities which such emigrant incurs by reason or in respect of his refusal or neglect aforesaid.

Emigrants refusing to embark.

Proviso.

Every case in which an emigrant is charged before a magistrate of police in a presidency town with refusing or neglecting to embark without sufficient cause shall be heard and determined by such magistrate in a summary manner, and every such emigrant shall, on conviction, be punished in the manner provided in section four hundred and ninety-two of the Indian Penal Code for the punishment of offences under that section.—[Indian Emigration Act, 1871—Act VII of 1871, s. 45.]

329 (*2d*). Emigrants may leave India for any place east of the Cape of Good Hope to which emigration is lawful under this Act at all times of the year.

Time of sailing for places east of Cape of Good Hope.

For any such place west of the Cape of Good Hope, emigrants may leave only between the thirty-first day of July and the first day of March, unless they embark in vessels using steam-power, in which case they may leave at any time of the year:

For other places.

Provided that, in cases of emergency, the Local Government may permit emigrants for any place west of the Cape of Good Hope to leave between the thirty-first day of July and the first day of April.—[Indian Emigration Act, 1871—Act VII of 1871, s. 46.]

329 (*2e*). The protector of emigrants shall, from the report of the medical inspector and by personal communication with every emigrant before embarkation,

Emigrants as fit to undertake voyage.

Exportation.

ascertain that the emigrant is in good health and not incapacitated from labour by old age, bodily infirmity, or disease.

If the protector of emigrants is of opinion that any emigrant is in a state of health which makes him unfit to undertake the voyage on which he is about to embark, the protector shall refuse to permit his embarkation, and the husband, wife, father, mother, or child of such emigrant may, notwithstanding anything herein contained, refuse to embark.

The protector of emigrants shall also, before the embarkation of any emigrant, ascertain that he has in his possession the copy of the registration provided under section twenty-seven or section twenty-nine.[1]

If it appear to the satisfaction of the protector of emigrants that any emigrant has lost such copy, the protector may furnish such emigrant with another copy of such registration, to be made from the copy received by the protector from the magistrate under section twenty-seven[2] or from the register kept by himself under section twenty-nine,[1] and shall thereupon allow such emigrant to embark.—[Indian Emigration Act, 1871—Act VII of 1871, s. 47.]

Provisions of Act to be explained.

329 (2*f*). The protector of emigrants shall explain to all emigrants, prior to their embarkation, the substance of the provisions of this Act so far as they immediately affect such emigrants.—[Indian Emigration Act, 1871—Act VII of 1871, s. 48.]

Procedure on embarkation.

329 (2*g*). (1) When any emigrants are about to embark on any vessel, the emigration agent for the place to which they are intended to proceed shall furnish the master of the vessel with five copies of a list specifying, as accurately as may be, the names, ages, and occupations, and the names of the fathers of the emigrants about to embark on board such vessel.

Emigrant to give his pass to master.

(2) On embarkation, every emigrant shall deliver to the master of the vessel the pass granted to him under section thirty-eight;[3] and the master shall not receive any emigrant on board unless he delivers up such pass. The master shall compare the emigrants who embark and the passes delivered by them with the list furnished by the emigration agent, and if the list appear to be correct, and to correspond with the passes delivered and with the emigrants embarked, the master shall sign the five copies of the list.

Protector to be personally present.

(3) The protector of emigrants shall be personally present at the embarkation of all emigrants, and shall see that the master duly compares the list with the passes and emigrants, and he shall himself also compare the list with the passes and emigrants.

Examination by medical inspector.

(4) The medical inspector shall also be personally present at the embarkation of all emigrants and shall examine each emigrant to ascertain if he is in

[1] Section 29 provides for the registration of emigrants recruited in presidency towns. A copy of such registration is to be delivered to the emigrant; no stamp is required on such copy.

[2] Section 27 provides for the examination and registration of emigrants engaged to emigrate in other places than Calcutta, Madras, and Bombay, and for their appearance before a magistrate for that purpose; a copy of such registration is to be given to the emigrant free from all duties.

[3] Section 38 directs emigration agents to give to emigrants passes after medical inspector's certificate has been obtained.

a fit state of health to emigrate to the place to which he has contracted to proceed; and the provisions of sections thirty-four, thirty-five, and thirty-six[1] shall apply, *mutatis mutandis*, to emigrants examined under this clause.

Examination.

(5) When the copies of the list have been signed, the master shall give two copies to the protector of emigrants, who shall sign such copies if he believes them to be correct, and shall return one copy to the master of the vessel; the other copy shall be filed in the office of the protector of emigrants.

One copy of list of emigrants given to Protector, to be signed and returned to master.

(6) The protector of emigrants shall not permit any emigrant to remain on board who has not a pass, or is not mentioned in the list aforesaid.

Emigrant without pass not to remain on board.

(7) Every pass delivered up to the master of a vessel under this section shall be returned by him to the emigrant by whom the same was delivered up, prior to such emigrant disembarking on the arrival of the vessel at her place of destination.—[Indian Emigration Act, 1871—Act VII of 1871, s. 49.]

Pass to be returned to emigrant on arrival at place of destination.

329 (*2h*). On embarkation, every emigrant shall deliver to the master of the vessel the embarkation-pass granted to him under section twenty-six,[2] and the master shall not receive any emigrant on board unless he delivers up such pass.—[Straits Settlement Emigration Act, 1877—Act V of 1877, s. 34.]

Emigrant to give his pass to master.

329 (*2i*). The emigration agent shall be personally present at the embarkation of all emigrants, and shall see that the master duly examines the passes of the emigrants, and shall himself also examine such passes.

Emigration agent to be present at embarkation.

The emigration agent shall not permit any emigrant to remain on board who has not a pass.—[Straits Settlements Emigration Act, 1877—Act V of 1877, s. 35].

329 (*2j*). The master of every vessel carrying emigrants shall, after the embarkation of the emigrants, and before the departure of the vessel, give to the emigration agent a list of all emigrants on board, signed by himself and mentioning the port of debarkation, and shall retain a counterpart of such list signed by the emigration agent.

Master to deliver list of emigrants.

A copy of such list signed by the emigration agent and master shall be sent by the emigration agent to the protector of emigrants before the vessel sails.—[Straits Settlements Emigration Act, 1877—Act V of 1877, s. 36.]

329 (*2k*). The master of every vessel carrying emigrants shall, after the embarkation of the emigrants and before the departure of the vessel, give to the emigration agent at the port from which such vessel is cleared out two others of the five copies of the list of emigrants mentioned in section forty-nine,[3] duly signed by the master.

Copy of list of emigrants to be signed by emigration agent and returned to master.

[1] Section 34 directs emigrant to show copy of Registration, given by a magistrate, to the medical inspector, and requires him to inspect emigrants.

Section 35 gives medical inspector power in certain cases to send back emigrant to place of registration.

Section 36 penalty on failure of emigration agents to pay sum required to enable emigrant to return.

Section 26 of Act V of 1877 provides that an embarkation pass shall be given to the emigrant by the protector of emigrants, provided that the protector finds no valid reason against the emigration of the intending emigrant.

[2] See s. 329 (*2g*).

Emigration.

And by him to be delivered at place of destination.

The emigration agent shall thereupon sign such copies, and shall return to the master one of the said copies, which shall, on the arrival of the vessel at the place of destination and previous to the disembarkation of any emigrant, be delivered by the master to the protector of emigrants, or other the proper officer, at such place.—[Indian Emigration Act, 1871—Act VII of 1871, s. 50.]

Protector to send list of emigrants to Government of place to which they sail.

329 (2*l*). The protector of emigrants shall, by every vessel which carries emigrants, send to the protector of emigrants or other the proper Government authority at the place for which the emigrants embark, a correct and detailed list of all emigrants embarked in such vessel, compiled from the passes of the emigrants and from the list signed by the master as aforesaid.—[Indian Emigration Act, 1871—Act VII of 1871, s. 51.]

Vessel sailing from Calcutta to depart within twenty-four hours of embarkation.

329 (2*m*). The master of every vessel carrying emigrants from the port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the emigrants as shall have first embarked.—[Indian Emigration Act, 1871—Act VII of 1871, s. 52.]

Vessel sailing from Calcutta to be towed to sea.

329 (2*n*). Every vessel sailing from the port of Calcutta with emigrants shall proceed from Garden Reach to sea under tow of a competent steamer.—[Indian Emigration Act, 1871—Act VII of 1871, s. 53.]

Copies of Act and rules to be kept on board.

329 (2*o*). Two copies of this Act and of all rules made by the Governor General in Council under section fifty-six,[1] and two copies of a translation of this Act and of such rules, in such language or languages as the Local Government may direct, shall be delivered to the master of every vessel carrying emigrants by the emigration agent at the time of clearance, and shall be kept on board of every such vessel during the whole voyage.

One of such copies of translations shall, upon request made at any reasonable time to the master of the vessel, be produced to any emigrant or passenger for his perusal.—[Indian Emigration Act, 1871—Act VII of 1871, s. 54.]

Taking emigrants for Seychelles to quarantine station of Mauritius.

329 (2*p*). In case of sickness breaking out on board of any vessel conveying emigrants to Seychelles, such emigrants may be taken to the quarantine station of Mauritius.

In such case the emigrants may, at their option, contract for service at Mauritius, or may proceed to Seychelles.

If they elect to contract for service in Mauritius, such emigrants shall then be regarded and treated, in all respects, as if they had emigrated to Mauritius under the provisions of this Act.—[Indian Emigration Act, 1871—Act VII of 1871, s. 55.]

Departure of Passenger Vessels and Procedure during Voyage.

Departure of Passenger Vessels and Procedure during Voyage.

Embarkation agent may order departure of vessel if unduly delayed.

329 (2*q*). Whenever it appears to any embarkation agent that the departure of any vessel in respect of which a license is granted hereunder is unduly delayed beyond the date fixed by order of a superintendent or the Local Government, or notified by advertisement in the public press, for such departure,

[1] S. 329 (4).

he may order the master of such vessel to proceed on his voyage at once.—[Inland Emigration Act, 1882—Act I of 1882, s. 96.]

Departure of Passenger Vessels and Procedure during Voyage.

329 (2*f*). No master licensed hereunder shall proceed on a voyage with his vessel carrying labourers until he has received from the embarkation agent the way-bills relating to all labourers on board. The embarkation agent and the master of the vessel shall together personally ascertain that the number of labourers on board corresponds with the number entered in such way-bills.

Master to receive way-bill from embarkation agent.

The embarkation agent shall send a copy of such way-bills to the magistrate of the labour-district to which such labourers are proceeding.—[Inland Emigration Act, 1882—Act I of 1882, s. 97.]

Labourers not allowed finally to leave vessel at any place other than that mentioned in way-bill.

329 (2*g*). No such master shall cause or permit any labourer finally to leave his vessel at any place other than that named in the way-bill as the destination of such labourer:

Provided that this section shall not be deemed to prevent the master of any vessel from permitting such labourers to disembark at any place or places on the voyage so long as such disembarkation is not intended or known to be likely to be final, nor to prevent the final disembarkation of any such labourers, or the transfer of such labourers with their dependents to any other vessel in case of accident or other unavoidable necessity. Such accident or necessity shall be forthwith reported by the master to the embarkation agent by whom he was licensed, and to the nearest magistrate in the district within which such accident has occurred or necessity has arisen.—[Inland Emigration Act, 1882—Act I of 1882, s. 98.]

Master to stop his vessel at certain places where there is a magistrate.

329 (2*h*). Every master licensed hereunder shall stop his vessel carrying passengers being natives of India at such places being places where a magistrate is stationed, and shall, unless the magistrate permits him to depart earlier, remain at each such place for such time, not exceeding six hours of daylight, as the Local Government may direct. Such master shall, on arriving at any such place, immediately report to the magistrate the number of the crew and other persons on board, the general state of their health, and the number of deaths (if any) which have occurred among the persons who embarked on board his vessel.—[Inland Emigration Act, 1882—Act I of 1882, s. 99.]

Magistrate may at any time inspect vessel. Master bound to give all information required.

329 (2*i*). A magistrate may, while any vessel in respect of which a license is granted hereunder is within the local limits of his jurisdiction, go on board such vessel and inspect the vessel and all persons being natives of India on board. The master and officers of such vessel shall afford to such magistrate every facility for such inspection, and give him all such information as he may reasonably require respecting the labourers or other persons on board, the deaths, if any, which may have occurred on board, and any other facts which may affect the health of the passengers.—[Inland Emigration Act, 1882—Act I of 1882, s. 100.]

Magistrate may regulate communication between vessel and land.

329 (2*c*). At any time while any such vessel is within the local limits of his jurisdiction, the magistrate may regulate the communication between such vessel and the land, and may prohibit all persons from leaving such vessel and

Emigration.

and by him to be delivered at place of destination.

The emigration agent shall thereupon sign such copies, and shall return to the master one of the said copies, which shall, on the arrival of the vessel at the place of destination and previous to the disembarkation of any emigrant, be delivered by the master to the protector of emigrants, or other the proper officer, at such place.—[Indian Emigration Act, 1871—Act VII of 1871, s. 50.]

Protector to send list of emigrants to Government of place to which they sail.

329 (*2l*). The protector of emigrants shall, by every vessel which carries emigrants, send to the protector of emigrants or other the proper Government authority at the place for which the emigrants embark, a correct and detailed list of all emigrants embarked in such vessel, compiled from the passes of the emigrants and from the list signed by the master as aforesaid.—[Indian Emigration Act, 1871—Act VII of 1871, s. 51.]

Vessel sailing from Calcutta to depart within twenty-four hours of embarkation.

329 (*2m*). The master of every vessel carrying emigrants from the port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the emigrants as shall have first embarked.—[Indian Emigration Act, 1871—Act VII of 1871, s. 52.]

Vessels sailing from Calcutta to be towed to sea.

329 (*2n*). Every vessel sailing from the port of Calcutta with emigrants shall proceed from Garden Reach to sea under tow of a competent steamer.—[Indian Emigration Act, 1871—Act VII of 1871, s. 53.]

Copies of Act and rules to be kept on board.

329 (*2o*). Two copies of this Act and of all rules made by the Governor General in Council under section fifty-six,[1] and two copies of a translation of this Act and of such rules, in such language or languages as the Local Government may direct, shall be delivered to the master of every vessel carrying emigrants by the emigration agent at the time of clearance, and shall be kept on board of every such vessel during the whole voyage.

One of such copies or translations shall, upon request made at any reasonable time to the master of the vessel, be produced to any emigrant or passenger for his perusal.—[Indian Emigration Act, 1871—Act VII of 1871, s. 54.]

Taking emigrants for sickness to quarantine station of Mauritius.

329 (*2p*). In case of sickness breaking out on board of any vessel conveying emigrants to Seychelles, such emigrants may be taken to the quarantine station of Mauritius.

In such case the emigrants may, at their option, contract for service at Mauritius, or may proceed to Seychelles.

If they elect to contract for service in Mauritius, such emigrants shall then be regarded and treated, in all respects, as if they had emigrated to Mauritius under the provisions of this Act.—[Indian Emigration Act, 1871—Act VII of 1871, s. 55.]

Departure of Passenger Vessels and Procedure during Voyage.

Departure of Passenger Vessels and Procedure during Voyage.

Embarkation agent may order departure of vessel if delay occurs.

329 (*2q*). Whenever it appears to any embarkation agent that the departure of any vessel in respect of which a license is granted hereunder is unduly delayed beyond the date fixed by order of a superintendent or the Local Government, or notified by advertisement in the public press, for such departure,

[1] S. 329 (*4*).

he may order the master of such vessel to proceed on his voyage at once.—[Inland Emigration Act, 1882—Act I of 1882, s. 96.]

Departure of Passenger Vessels and Procedure during Voyage.

329 (2*r*). No master licensed hereunder shall proceed on a voyage with his vessel carrying labourers until he has received from the embarkation agent the way-bills relating to all labourers on board. The embarkation agent and the master of the vessel shall together personally ascertain that the number of labourers on board corresponds with the number entered in such way-bills.

Master to receive way-bill from embarkation agent.

The embarkation agent shall send a copy of such way-bills to the magistrate of the labour-district to which such labourers are proceeding.—[Inland Emigration Act, 1882—Act I of 1882, s. 97.]

329 (2*s*). No such master shall cause or permit any labourer finally to leave his vessel at any place other than that named in the way-bill as the destination of such labourer:

Labourers not allowed finally to leave vessel at any place other than that mentioned in way-bill.

Provided that this section shall not be deemed to prevent the master of any vessel from permitting such labourers to disembark at any place or places on the voyage so long as such disembarkation is not intended or known to be likely to be final, nor to prevent the final disembarkation of any such labourers, or the transfer of such labourers with their dependents to any other vessel in case of accident or other unavoidable necessity. Such accident or necessity shall be forthwith reported by the master to the embarkation agent by whom he was licensed, and to the nearest magistrate in the district within which such accident has occurred or necessity has arisen.—[Inland Emigration Act, 1882—Act I of 1882, s. 98.]

329 (2*t*). Every master licensed hereunder shall stop his vessel carrying passengers being natives of India at such places being places where a magistrate is stationed, and shall, unless the magistrate permits him to depart earlier, remain at each such place for such time, not exceeding six hours of daylight, as the Local Government may direct. Such master shall, on arriving at any such place, immediately report to the magistrate the number of the crew and other persons on board, the general state of their health, and the number of deaths (if any) which have occurred among the persons who embarked on board his vessel.—[Inland Emigration Act, 1882—Act I of 1882, s. 99.]

Master to stop his vessel at certain places where there is a magistrate.

329 (2*u*). A magistrate may, while any vessel in respect of which a license is granted hereunder is within the local limits of his jurisdiction, go on board such vessel and inspect the vessel and all persons being natives of India on board. The master and officers of such vessel shall afford to such magistrate every facility for such inspection, and give him all such information as he may reasonably require respecting the labourers or other persons on board, the deaths, if any, which may have occurred on board, and any other facts which may affect the health of the passengers.—[Inland Emigration Act, 1882—Act I of 1882, s. 100.]

Magistrate may at any time inspect vessel. Master bound to give all information required.

329 (2*v*). At any time while any such vessel is within the local limits of his jurisdiction, the magistrate may regulate the communication between such vessel and the land, and may prohibit all persons from leaving such vessel and

Magistrate may regulate communication between vessel and land.

Departure of Passenger Vessels and Procedure during Voyage.

all persons on land from proceeding on board her.—[Inland Emigration Act 1882—Act I of 1882, s. 101.]

Magistrate may detain vessel for inspection and for removal of disease, and may detain sick native passengers.

329 (*2w*). Any magistrate may, if he has reason to believe that any passengers being natives of India on board any such vessel within the local limits of his jurisdiction are, or are likely to be, affected with any dangerously infectious or contagious disease, detain such vessel and require the civil medical officer of the district or other qualified medical officer to inspect such passengers and to report on their health, stating whether any or what measures are requisite for the removal or prevention of such disease. After the receipt of such report, the magistrate may order any such passenger suffering from any such disease to be disembarked and detained for medical treatment. If in the opinion of the inspecting medical officer it is dangerous to the health of the general body of the passengers to allow such vessel to proceed until measures have been taken to cleanse and disinfect her, the magistrate may detain the vessel for a further period, not exceeding three days, for the purpose of carrying out such measures.—[Inland Emigration Act, 1882—Act I of 1882, s. 102.]

Magistrate may detain sick labourers; and shall arrange for their accommodation and treatment.

329 (*2x*). If, on receiving a report of a medical officer, it appears to a magistrate that any labourer or any dependent of any labourer, though not suffering from any such disease as last aforesaid, is not in a fit state of health to proceed to the labour-district in which such labourer has contracted to labour, he may order such labourer or dependent to be detained, and shall cause all necessary arrangements to be made for the accommodation, support, and medical treatment of the labourer or dependent so detained.—[Inland Emigration Act, 1882—Act I of 1882, s. 103.]

Expenses how to be recovered.

329 (*2y*). All expenses incurred under section one hundred and three[1] by a magistrate in respect of any labourer or dependent so detained shall be recoverable from the employer of such labourer, together with interest at six per centum per annum.—[Inland Emigration Act, 1882—Act I of 1882, s. 104.]

Measures to be taken if excess number of native passengers found on board.

329 (*2z*). Whenever it appears to a magistrate making an inspection of any vessel in respect of which a license is granted hereunder that the number of passengers on board being natives of India is larger than the number specified in such license or than the number specified in an order of an embarkation agent made under section ninety-one, he may remove the excess number and detain them until another opportunity of forwarding them to their destination is found. The necessary expense of maintaining such passengers while so detained and of forwarding them to their destination shall be paid by such magistrate, and shall be recoverable from the master or owner of such vessel. —[Inland Emigration Act, 1882—Act I of 1882, s. 105.]

Infraction of the Act and rules to be reported. Vessel may be detained.

329 (*3a*). Whenever, on making an inspection of any vessel in respect of which a license is granted hereunder, a magistrate finds that any of the provision of this Act or of any rule of the Local Government made hereunder have not been complied with in respect of such vessel, he shall report the same

to the embarkation agent by whom such license was granted; and, if he considers it necessary to do so, he may detain the vessel until such provisions have been so complied with as to make it possible for the voyage to be further prosecuted with safety and reasonable comfort to the emigrants.—[Inland Emigration Act, 1882—Act I of 1882, s. 106.]

Departure of Passenger Vessels and Procedure during Voyage.

329 (*3b*). The magistrate of a district, or of a division of a district, may from time to time authorise any subordinate magistrate, medical officer, or officer of police above the rank of sub-inspector to exercise the powers and authorities conferred, and to perform the duties imposed, on a magistrate under sections ninety-nine to one hundred and six,[1] both inclusive.—[Inland Emigration Act, 1882—Act I of 1882, s. 108.]

Magistrate depute a subordinate magistrate to discharge the functions of the magistrate.

Native Passenger Ships—Rules for all Voyages.

Rules for all Voyages.

329 (*3c*). No ship carrying passengers shall depart or proceed from, or shall discharge passengers at, any port or place within British India other than such ports and places as the Local Government may from time to time appoint in this behalf;

No ship to discharge except at places appointed by Government.

and after any ship has departed or proceeded upon any voyage from a port or place so appointed, no person shall be received on board as a passenger, except at some other port or place so appointed.—[Native Passenger Ships Act,[2] 1876—Act VIII of 1876, s. 6.]

329 (*3d*). The master, owner, or agent of every ship so departing or proceeding shall give notice to an officer authorised in this behalf by the Local Government that the ship is to carry native passengers, and of her destination, and of the proposed time of sailing.

Master to give notice of day of sailing, &c.

Such notice shall be given not less than twenty-four hours before such time.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 7.]

329 (*3e*). After receiving such notice, the officer aforesaid, or any person authorised by him, shall be at liberty at all times to enter and inspect the ship and the fittings, provisions, and stores therein.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 8.]

Power to enter and inspect ship.

329 (*3f*). No ship intended to carry passengers shall commence any voyage from any port or place appointed under this Act, unless the master holds two certificates to the effect hereinafter mentioned.

Not to sail without two certificates.

[1] Sections 329 (*2b*), 329 (*2c*), 329 (*2e*), 329 (*2w*), 329 (*2x*), 329 (*2y*), 329 (*2z*), 329 (*3a*).

[2] This Act extends to the whole of British India, and applies to all subjects of Her Majesty within the Dominions of Princes and States in India, in alliance with Her Majesty, to all Native Indian Subjects of Her Majesty without and beyond British India: and subject to the exceptions mentioned in the subsequent part of this section; to vessels carrying more than thirty passengers, being natives of Asia or Africa; but nothing in this Act applies to any ship of war or transport belonging to, or in the service of, Her Majesty; or to any ship of war belonging to any Foreign Prince or State or to any sailing vessels not carrying as passengers more than thirty natives of Asia or Africa; or to any steamer not carrying as passengers more than sixty of such natives; or to any sailing vessel or steamer not intended to convey passengers to or from any port in British India.—[Act VIII of 1876, s. 2.]

Rules for all Voyages.

Port-clearance.

And the officer of Government whose duty it is to grant a port-clearance for such ship shall not grant the same unless the master holds such certificates.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 9.]

Contents of certificate A.

329 (*3g*). The first of such certificates (hereinafter called 'certificate A') shall state that the ship is seaworthy and properly equipped, fitted, and ventilated; and the number of passengers that she is capable of carrying.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 10.]

Contents of certificate B.

329 (*3h*). The second of such certificates (hereinafter called 'certificate B') shall state—

(*a*) the voyage which the ship is intended to make, and the intermediate ports (if any) at which she is intended to touch;

(*b*) that she has the proper complement of officers and seamen;

(*c*) that provisions, fuel, and pure water, over and above what is necessary for the crew, and the other things (if any) prescribed for the ship by rule under section forty-six, have been placed on board, of the quality prescribed by rule under the same section, properly packed, and sufficient to supply the passengers on board during the declared duration of the intended voyage, according to the scale for the time being prescribed by rule under the same section;

(*d*) that the master holds certificate A;

(*e*) if she is intended to make a short voyage in a season of foul weather and to carry upper-deck passengers, that she is furnished with substantial bulwarks and a double awning or other sufficient protection against the weather;

(*ee*) [in the case of any ship sailing to any port in the Red Sea, that she is propelled principally by steam, and if she is carrying more than one hundred passengers being natives of Asia or Africa, that she has on board a medical officer licensed in accordance with rules made under this Act;][1]

(*f*) such other particulars (if any) as may for the time being be required for such ship under this Act.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 11.]

Grant of certificate B.

329 (*3i*). The person by whom certificate B is to be granted shall in all cases be the officer referred to in section seven.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 12.]

Grant of certificate A.

329 (*3j*). The person by whom certificate A is to be granted shall be the officer aforesaid, except that, if the master of the ship produce to such officer either of the following certificates (namely)—

(*a*) a valid certificate granted by the Board of Trade or by any British Colonial Government;

(*b*) a certificate granted under the authority of any British Indian Government, and dated not more than six months before the proposed

[1] See Act XVII of 1889, s. 2.

Rules for all Keepers.

day of sailing, and if the particulars required by section ten are certified thereby, such officer may take any such certificate as evidence of such particulars, and it shall then be a valid certificate for the purposes of this Act.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 13.]

Ship may be surveyed.

329 (*3k*). After receiving the notice required by section seven,[1] the officer aforesaid may, if he think fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted, and ventilated for her intended voyage:

Provisos as to ships holding certificate mentioned in section 13.

Provided that he shall not cause any ship holding any certificate mentioned in section thirteen,[2] clause (*a*) or clause (*b*), to be surveyed unless, from the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted, or ventilated for her intended voyage.

Expense of survey.

If the officer aforesaid causes a survey to be made of any vessel holding any such certificate, and if the surveyors report that the vessel is seaworthy and properly equipped, fitted, and ventilated for her intended voyage, and that there was no reasonable ground why the officer aforesaid should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted, or ventilated for her intended voyage, the expense of the survey shall be paid by the Local Government.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 14.]

Certificate not to be granted where cargo likely to be improperly stowed.

329 (*3l*). The officer authorised to grant a certificate under this Act, in respect of a ship, shall not grant the same, unless he is satisfied that she has not on board any cargo likely from its quality, quantity, or mode of storage to prejudice the health or safety of the passengers.

Discretion of officer.

But, save as aforesaid to the provisions of section sixteen, the grant or withholding of a certificate under this chapter shall in all cases be in the discretion[3] of the officer aforesaid.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 15.]

Copy of certificate to be exhibited.

329 (*3m*). The owner or master shall put up in a conspicuous part of the ship, so as to be visible to persons on board the same, a copy of each of the said certificates granted by an officer appointed under this Act in respect of the ship, and shall keep such copies in such position during the voyage.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 17.]

Contract by passengers for supply of their own provisions.

329 (*3n*). The requirements of this Act respecting the supply of provisions for passengers shall not, except as to the supply of water, be applicable to any passenger who has contracted to furnish his own provisions, and who has, in

[1] See s. 329 (*3d*).

[2] See s. 329 (*3f*).

[3] In the exercise of such discretion such officer shall be subject to the control of the Local Government, or of any such intermediate authority which that Government may from time to time appoint in this behalf.—[Act VIII of 1876, s. 16.]

Rules for all voyages.

the opinion of such officer as the Local Government appoints in this behalf, actually furnished such provisions of the quality and to the amount for the time being prescribed by rules made under section forty-six.[1]—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 18.]

Governors of Her Majesty's possessions abroad may prescribe certain rates of dockage for the conveyance of Asiatics and Africans.

329 (*3o*). It shall be lawful for the Governors of Her Majesty's possessions abroad, if they shall think fit, to declare by proclamation that ships intended to pass within the tropics from any ports within their respective Governments may convey passengers, being natives of Asia or Africa after the rate of one for every twelve superficial feet of the passenger deck, instead of one for every fifteen such superficial feet as required by the section aforesaid.[2]—[Passengers' Act 1853, 16 & 17 Vict., c. 84, s. 1.]

Governor of Ceylon may regulate the number of passengers to be carried on certain vessels.

329 (*3p*). And whereas it is exedient to expempt from the operation of the whole of the said twelfth section[2] vessels carrying passengers between the ports of Ceylon and the ports of the territories under the Government of the East India Company which lie within the Gulf of Manar and Palks' Straits; be it therefore enacted that the restrictions in the said twelfth section of the Passengers' Act, 1852, shall not apply to vessels proceeding on any voyage from any port or place in the Island of Ceylon to any port or place in the territories under the Government of the East India Company in the Gulf of Manar or Palks' Straits; but that it shall be lawful for the Governor and Legislative Council of Ceylon, if they shall so think fit, to regulate by ordinance the number of persons or passengers who may be carried on board of vessels proceeding on any such voyage as last aforesaid.—[Passengers' Act, 1853, 16 & 17 Vic., c. 84, s. 2.]

Rules for Short Voyages.

Native Passenger Ships—Rules for Short Voyages.

329 (*3q*). For seasons of fair weather,[3] every ship performing a short voyage shall contain in the between-decks at least six superficial feet and thirty-six cubic feet of space for every intermediate or between-deck passenger, and shall contain on the upper-deck at least four superficial feet for each such passenger and six superficial feet for each upper-deck passenger.

Space to be provided for intermediate or between-deck passengers.

For seasons of foul weather,[3] every ship propelled by sails and performing a short voyage shall contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space for every intermediate or between-deck passenger, and shall contain on the upper-deck at least four superficial feet for each such passenger and twelve superficial feet for each upper-deck passenger.

[1] See s. 329 (*4m*).

[2] Section 12 of Passengers Act, 1852, 15 & 16 Vic., c. 44. The Statute mentioned is repealed in England by 18 & 19 Vic., c. 119, s. 1.

[3] The Governor General may, by notification in the *Gazette of India*, declare what shall be deemed for the purposes of this Act "Seasons of fair weather" and "Seasons of foul weather," and for sailing vessels and steamers respectively a "long voyage" and a "short voyage".—[Act VIII of 1876, s. 48.]

For seasons of foul weather, every ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage, shall contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space for every intermediate or between-deck passenger, and shall contain on the upper-deck at least four superficial feet for each such passenger and nine superficial feet for each upper-deck passenger. *Rules for Short Voyages.*

But in such seasons no ship shall carry upper-deck passengers unless she is furnished with substantial bulwarks and a double awning or other sufficient protection against the weather.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 19.]

329 (*3r*). If any ship performing a short voyage takes any additional passengers on board at any intermediate port or place, the master shall obtain a supplementary certificate from the proper officer at such ports stating—

(*a*) the number of passengers so taken on board, and

(*b*) that provisions, fuel, and pure water (over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by rule under section forty-six)[1] have been placed on board, of the quality prescribed by rule under the same section, properly packed, and sufficient to supply the total number of passengers on board during the declared duration of the intended voyage, according to the scale for the time being prescribed by rule under the same section: *Ship taking additional passengers at intermediate port.*

Provided that, if the certificate B held by the master of such ship states that provisions, fuel, and pure water, over and above what is necessary for the crew, and the other things, if any, prescribed for her by rule under section forty-six, have been placed on board, of the quality prescribed by rule under the same section, properly packed, and sufficient to supply the full number of passengers that she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 20.]

329 (*3s*). When the ship reaches her final port of arrival, the master shall notify to such officer as the Governor General in Council may appoint in this behalf the date and supposed cause of death of every passenger dying on the voyage—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 21.] *Report of deaths on the voyage.*

Native Passenger Ships—Rules for Long Voyages.

Rules for Long Voyages.

329 (*3t*). Every ship propelled by sails and performing a long voyage shall contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space for every passenger. *Space to be provided for passengers.*

Every ship propelled by steam, or partly by steam and partly by sails, and performing a long voyage, shall contain in the between-decks at least

[1] S. 329 (*3n*).

Rules for Long Voyages.

nine superficial feet and fifty-four cubic feet of space for every passenger.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 22.]

Power to prescribe space to be contained for passengers.

329 (*3a*). The Governor General in Council may from time to time direct, in the case of any ship or class of ships and for all or any voyages to which this Act applies, the number of superficial or of cubic feet of space to be contained for the passengers; and such direction shall override the provisions of sections nineteen and twenty-two so far as they apply to such ship or class of ship.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 19.]

Statements of passengers.

329 (*3b*). The master of every such ship, before departing or proceeding on any long voyage from any port or place in British India, shall sign two statements, specifying the number and the respective sexes of all the passengers, and stating the number of the crew, and shall deliver them to the officer last aforesaid, who shall thereupon (after having first satisfied himself that the numbers are correct) countersign and return to the master one of such statements.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 23.]

Deaths on voyage.

329 (*3c*). The master shall note in writing on such last-mentioned statement, and on any additional statement to be made under the next following section, the date and supposed cause of death of any passenger who may die on the voyage, and shall forthwith, on the arrival of the ship at her destination, or at any port at which it may be intended to land passengers, and before any passengers are landed, produce the statement, with any additions thereto made, to any person lawfully exercising Consular authority on behalf of Her Majesty at the port of arrival if it be a foreign port, or to the chief officer of Customs, or the officer (if any) appointed under this Act to receive such statements, at any port or place at which it is intended to land the passengers or any of them.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 24.]

Procedure on arrival.

Ship taking additional passengers and touching at intermediate port.

329 (*3e*). If, after the ship has departed or proceeded on any long voyage, any additional passengers are taken on board at a port or place within British India appointed under this Act for the embarkation of passengers,

or if such ship upon her voyage touch or arrive at any such port, having previously received on board additional passengers at any place without British India,

the master shall obtain a fresh certificate to the effect of certificate B from the proper officer at such port, and shall make additional statements specifying the number and the respective sexes of all such additional passengers;

and all the provisions hereinbefore contained in that behalf shall be applicable to any certificate granted or statement made under this section.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 25.]

Bond when ship sails for port in Red Sea.

329 (*3g*). In the case of every ship sailing from any port in British India to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for any such ship shall not grant such clearance unless and until the owner, agent, or master of the ship and two sureties resident in British

India have executed in favour of the Secretary of State for India in Council a joint and several bond for that sum of five thousand rupees conditioned— *Rules for long Voyages.*

(*a*) that the ship shall touch at Aden on the outward voyage, and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty passengers;

(*b*) that the master and medical officer (if any) of the ship shall comply with on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty passengers, the provisions of this Act, and of such rules relating to ships sailing between ports in British India and ports in the Red Sea as the Governor General in Council may from time to time make under section forty-six.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 26.][1]

329 (*3a*). Every ship carrying more than (sixty[2]) passengers being native of Asia or Africa, and sailing from any port in British India to any port in the Red Sea, *Ships sailing to or from port in Red Sea to touch at Aden.*

or sailing from any port in the Red Sea to any port in British India,

shall touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 27.]

329 (*4a*). No bill of health shall be granted under section twenty-six or section twenty-seven in case the ship has on board a greater number of passengers than in the proportion prescribed for her by this Act. (And the authority empowered to grant the same may refuse to grant a bill of health in the case of any ship on board of which the requirements of the rules made under section forty-six are not complied with).[3]—[Native Passenger Ships Act 1876—Act VIII of 1876, s. 28.] *Bill of health.*

329 (*4b*). Every ship sailing from or to any port in British India to or from any port in the Red Sea and carrying more than one hundred passengers being natives of Asia or Africa shall have on board a medical officer licensed in accordance with rules made under this Act.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 28A.][4] *Certain ships to carry medical officer.*

329 (*4c*). Every ship sailing from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 28B.][4] *Certain ships to be propelled by steam.*

329 (*4d*). (1) The Local Government may, from time to time, direct that no passenger shall be received on board any ship or any ship of a specified class sailing from any port in British India to any port in the Red Sea unless and until he has been inspected at such time and place as the Local Government *Power for Local Government to direct medical inspection of passengers.*

[1] As Amended by Native Passenger Ships Act, 1883—Act XVII of 1883, s. 3.

[2] Act XVII of 1883, s. 4.

[3] Act XVII of 1883, s. 5.

[4] Act XVII of 1882, s. 6.

Rules for Long Voyages.

may fix in this behalf, by a medical officer to be appointed by the Local Government in this behalf.

(2) If, in the opinion of the officer making an inspection under this section, a passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 28C.][1]

Expenses of Distressed Passengers.

Expenses of Distressed Passengers.

329 (*4e*). Whereas by section XCIX of an Act[2] of the Imperial Parliament called "The Passengers' Act, 1855," it is enacted that "it shall be lawful for the Governor General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage, from any ports or places within the territories of British India, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts:" and it is thereby also enacted that "on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced." And whereas it is expedient to make certain parts of the said Act of Parliament applicable to the carriage of passengers upon the voyages hereinafter specified: It is enacted as follows:—

Certain provisions of Statute, 18 & 19 Vic., c. 119, made applicable to India.

1. The provisions contained in sections two, three, and four of this Act (being parts of the said Acts of Parliament) are declared applicable to the carriage of passengers upon the following voyages:—

Voyages from the ports of Calcutta, Madras, and Bombay to the Mauritius;

Voyages from the ports of Calcutta, Madras, and Bombay to Jamaica, British Guiana, and Trinidad;

Voyages from the ports of Calcutta, Madras, and Bombay to St. Lucia and Grenada;

[Voyages from ports in British India to ports in the Red Sea or Persian Gulf under the Native Passenger Ships Act, 1876.][3]—[Indian Passengers' Act, 1860—Act II of 1860—preamble, and s. 1.]

Governors or Consuls may pay expenses of passengers taken off Passenger-ship.

329 (*4f*). If the passengers on any such voyage as is specified in the last preceding section shall be taken off from the ship carrying such passengers, or shall be picked up at sea from any boat, raft, or otherwise, it shall be lawful, if the port or place to which they shall be conveyed shall be in any

[1] Act XVII of 1883, s. 6.

[2] 18 & 19 Vic., c. 119.

[3] Amended by Act VIII of 1876, s. 4.

of Her Majesty's colonial possessions, for the Governor of such colony, or for any person authorised by him for the purpose, or if in any foreign country, for Her Majesty's Consular officer at such port or place therein, to defray all or any part of the expenses thereby incurred.[1]—[Indian Passengers' Act, 1860—Act II of 1860, s. 2.]

Expenses of Delivered Passengers.

329 (*4g*). If any passenger of any such passenger-ship as aforesaid shall, without any neglect or default of his own, find himself within any colonial or foreign port or place other than that at which he may have contracted to land, it shall be lawful for the Governor of such colony, or for any person authorised by him for the purpose, or for Her Majesty's Consular officer at such foreign port or place, as the case may be, to forward such passenger to his intended destination, unless the master of such ship shall, within forty-eight hours of the arrival of such passenger, give to the Governor or Consular officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter such passenger to his original destination, and unless such master shall accordingly forward or carry him on within that period.[2]—[Indian Passengers' Act, 1860—Act II of 1860, s. 3.]

Governors or Consuls may send on passengers, if the master of the ship fail to do so.

329 (*4h*). All expenses incurred under the last two preceding sections or either of them, by or by the authority of such Governor or Consular officer, as aforesaid, including the cost of maintaining the passengers until forwarded to their destination, and of all necessary beddings, provisions, and stores, shall become a debt to Her Majesty and Her successors from the owner, charterer, and master of such ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts; and a certificate purporting to be under the hand of any such Governor or Consular officer (as the case may be) stating the total amount of such expenses, shall in any suit or other proceeding for the recovery of such debt be received in evidence without proof of the hand-writing or of the official character of such Governor or Consular officer, and shall be deemed sufficient evidence of the amount of such expenses, and that the same were duly incurred:

Expenses incurred under sections 2 and 3 to be a Crown debt.

Provided nevertheless that in no case shall any larger sum be recovered on account of such expenses than a sum equal to twice the total amount of passage-money received by the owner, charterer, or master of such passenger-ship or any of them, from or on account of the whole number of passengers who may have embarked in such ship; which total amount of passage-money shall be proved by the defendant if he will have the advantage of this limitation of the debt: but if any such passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding section, they shall not be entitled to the return of their passage-money, or to any compensation for loss of passage.[3]—[Indian Passengers' Act, 1860—Act II of 1860, s. 4.]

Passengers forwarded by Governor, &c., not entitled to compensation.

[1] 18 & 19 Vic., c. 119, s. 52.
[2] 18 & 19 Vic., c. 119, s. 53.
[3] 18 & 19 Vic., c. 119, s. 54.

Supplementary Powers as to Emigration and Emigrant Ships.

Power of the Governor-General in Council to make rules.

329 (*4*). The Governor General in Council may from time to time make rules consistent with this Act—

(1) to regulate the proportion of women to be taken with emigrants, the proportion of children to be taken with adults, and the age below or above which children shall not be taken;

(2) to prescribe the description, quantity, and quality of provisions to be taken by vessels carrying emigrants, the daily allowance of food and water to be issued to each emigrant during the voyage, and the nature and amount of clothing which shall be supplied to the emigrants;

(3) to provide for the medical care of emigrants during their residence at the depôts and on their voyages;

(4) to prescribe the nature, quality, and quantity of medical drugs and other stores to be carried on board such vessels;

(5) to provide for the ventilation and cleanliness of such vessels during their voyages, and for their being furnished with a sufficient number of suitable boats for use in case of shipwreck or fire;

(6) to provide for a journal being kept, by the surgeon of every such vessel, of the health of the emigrants, and of his treatment of the sick, together with full explanations of the causes of every death;

(7) and generally to provide for the security, well-being, and protection of emigrants.

All such rules shall be published in the *Gazette of India*[1] and shall have effect as if they were contained in this Act:

Provided that, in cases of emergency, the Local Government may permit any vessel carrying emigrants to leave port, although the proportion of women or children embarked on board such vessel is not in accordance with the said rules.—[Indian Emigration Act, 1871—Act VII of 1871, s. 56.]

Power of the Local Government to make rules.

329 (*5*). The Local Government may make rules consistent with this Act—

(*a*) to define and regulate the powers and duties of the several officers appointed by it under this Act;

(*b*) to prescribe what returns and reports shall be made under this Act by any such officers or by any contractors or local agents within the territories under its administration, and the form in which they shall be respectively so made;

(*c*) to prescribe the forms of all registers, licenses, certificates and notices required under this Act with respect to the territories under its administration;

[1] Rules as to emigration from Calcutta—see *Gazette of India*, 22nd February 1873, p. 115; 1st November 1873, p. 926; 30th May 1874, p. 328; 17th July 1875, p. 372; 15th January 1876, p. 40.

From Madras—*Gazette of India*, 7th February 1874, p. 54; 14th November 1874, p. 541; 17th July 1875, p. 372; 15th January 1876, p. 40.

From Bombay—*Bombay Government Gazette*, 29th April 1875, p. 414. *Gazette of India*, 22nd May 1875, p. 238; 15th January 1876, p. 40.

Supplementary Powers as to Emigration and Emigrant Ships.

(*d*) to prescribe the particulars to be registered by a registering officer in respect of each person who is brought before him in any district under its administration for registration as a labourer or dependent;

(*e*) to prescribe the fees to be paid for any license granted under this Act by any officer appointed by it and for the registration of labourers or dependents in any district under its administration;

(*f*) to prescribe the conditions upon which any officer appointed by it may grant licenses to masters of vessels carrying passengers to any labour-district; to provide for the ventilation, cleanliness, and water-supply of such vessels in respect of which licenses are granted hereunder by any such officer; and to prescribe the lists, returns, and reports to be kept and submitted by the masters of such vessels;

(*g*) to prescribe the description, quantity, and quality of provisions, medical drugs, and other stores to be taken on board such vessels carrying labourers when such vessels are within the territories under its administration, and the daily allowance to be issued to each labourer and dependent during the journey through such territories; to prescribe the number of officers, cooks, and other servants to be carried on board such vessels, and to provide generally for the accommodation of labourers and their dependents on such vessels;

(*h*) to provide for the accommodation, food, clothing, and medical treatment of all labourers and dependents detained on account of sickness by order of a magistrate at any place within any district under its administration;

(*i*) to declare the routes through the territories under its administration by which labourers and their dependents shall not travel to the labour-districts;

(*j*) to prescribe the house-accommodation, water-supply, sanitary arrangements, and amount and kind of food-grains to be provided by employers for their labourers, and to regulate the rations to be supplied to labourers under this Act in the labour-districts under its administration;

(*k*) to provide for the hospital-accommodation and medical treatment of labourers in such labour-districts, and to prescribe the nature, quality, and quantity of medical drugs and other stores to be provided for such labourers;

(*l*) to provide for the management and regulation of contractors' depôts and of hospital-depôts situate within the territories under its administration, and for the support and medical treatment of labourers and their dependents passing through such depôts;

(*m*) to prescribe the clothing to be supplied to labourers and their dependents while proceeding to the labour-districts through the territories under its administration; and, generally,

(*n*) to give effect to the provisions of this Act within the districts subject

Supplemental Rule-Powers as to Emigration and Emigrant Ships.

to its administration.—[Inland Emigration Act, 1882—Act I of 1882, s. 143.][1]

Special power of the Lieutenant-Governor of Bengal and Chief Commissioner of Assam.

329 (*kk*). The Lieutenant-Governor of Bengal and the Chief Commissioner of Assam may further respectively make rules consistent with this Act to provide for the detention and inspection of vessels in respect of which licenses are granted hereunder, and passengers, being natives of India, carried thereon while in transit through the territories respectively administered by them.—[Inland Emigration Act, 1882—Act I of 1882, s. 144.]

Power to prescribe penalties.

329 (*kl*). The Local Government may, subject to the control of the Governor General in Council, by rule prescribe, as a penalty for the infringement of any rule made by it hereunder, or of any provision of this Act for a breach of which a penalty is not expressly provided, a fine which may extend to five hundred rupees.

Publication of rules.

All rules made under this Act by the Local Government shall be published in the local official Gazette, and shall thereupon have the force of law.—[Inland Emigration Act, 1882—Act I of 1882, s. 145.]

Power to make rules as to provisions, stores, boats, &c.

329 (*km*). The Governor General in Council may from time to time make rules consistent with this Act, to regulate, in the case of any ship or class of ships to which this Act applies, all or any of the following matters:—

(*a*) the scale on which provisions, fuel, and water are to be supplied to the passengers, and the quality of such provisions, fuel, and water;

(*b*) the medical stores and other appliances and fittings for maintaining health, cleanliness and decency to be provided on board;

(*bb*) the licensing and appointment of medical officers in cases where they are required under this Act to be carried;[2]

(*c*) the boats, anchors and cables to be provided on board;

(*d*) the instruments for purposes of navigation to be supplied;

(*e*) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires;

(*ee*) the functions of the master, medical officer (if any), and other officers of the ship during the voyage;[2]

(*eee*) the access of intermediate or between-deck's passengers to the upper deck;[2]

(*f*) and, generally, to carry out the provisions of this Act.

All such rules shall be published in the *Gazette of India*, and shall thereupon have the force of law.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 46.]

Power to prohibit emigration from any place to which emigration is allowed.

329 (*kn*). Whenever the Governor General in Council has reason to believe that in any place to which emigration is lawful under this Act proper measures have not been taken for the protection of emigrants immediately upon their arrival in such place or during their residence therein, or for their

[1] For rules under ss. 143 and 144, see *Calcutta Gazette*, Part I, November 21st, 1883, p. 933; and *ibid.*, 5th December 1883, Part I, p. 1143.

[2] Act XVII of 1883, s. 8.

safe return to India; or to provide a return-passage to India for any such emigrants at or about the time at which they are entitled to such return-passage, the Governor General in Council may, by notification published in the *Gazette of India*, declare that emigration to such place shall cease and be prohibited from a certain day to be specified in the notification.—[Indian Emigration Act, 1871—Act VII of 1871, s. 57.]

Supplementary Powers as to Emigration and Emigrant Ship.

329 (*4o*). Whenever the Governor General in Council or the Local Government has reason to believe that, in any place to which emigration is lawful, the plague or other infectious disease dangerous to human life has broken out,

Power to prohibit emigration.

or that proper measures have not been taken for the protection of emigrants immediately upon their arrival in such place or during their residence therein,

or for their safe return to India,

or to provide a return-passage to India for any such emigrants at or about the time at which they are entitled to such return-passage,

the Governor General in Council or the Local Government may, by notification published in the *Gazette of India* or the local Gazette (as the case may be), declare that emigration from British India or from the territories subject to the Local Government (as the case may be) to such place shall cease and be prohibited from a certain day to be specified in the notification.

Any notification issued by the Governor General in Council under this section may be cancelled by notification in the *Gazette of India*.

Any notification issued by the Local Government under this section may be cancelled by order of the Governor General in Council or by the Local Government.—[Indian Emigration Act, 1871—Act VII of 1871, s. 61.]

Power to prohibit emigration to the Straits Settlements.

329 (*4p*). Whenever the Governor General in Council has reason to believe that proper measures have not been taken for the protection of emigrants and the enforcement of the engagements entered into with them immediately upon their arrival at the Straits Settlements, or during their residence therein, the Governor General in Council may, by a notification published in the *Gazette of India*, declare that emigration under this Act to the said Settlements shall cease from a day to be specified in such notification.

When any notification has been published under this section, emigration under this Act and the making of contracts to emigrate to the Straits Settlements shall be unlawful from the day specified in such notification.—[Straits Settlements Emigration Act, 1877—Act V of 1877, s. 37.]

Emigration to place mentioned to be suspended.

329 (*4q*). After any notification has been published under section fifty-seven, emigration to such place as is specified in such notification shall be suspended from the day specified in the notification; but such suspension shall not affect any act done, offence committed, or proceedings commenced before such suspension.—[Indian Emigration Act, 1871—Act VII of 1871, s. 58.]

During suspension laws against emigration to be in force as to place specified.

329 (*4r*). During the time of such suspension any provisions of this Act prohibiting emigration, or the aiding or abetting of emigration, or the making of any contract for labour to be performed by any native of India out of the British territories in India, shall take effect so far as relates to the place

Supplementary Powers as to Emigration and Emigrant Ships.

specified in the notification, in the same manner and to the same extent as if emigration to such place had never been declared to be lawful.—[Indian Emigration Act, 1871—Act VII of 1871, s. 59.]

Revocation of suspension.

329 (*ds*). Whenever the Governor General in Council is satisfied that, in the place specified in any notification under section fifty-seven, proper measures have been taken and will be adopted for the protection of emigrants immediately upon their arrival thereat and during their residence therein, and for their safe return to India, and for providing return-passages to India for such emigrants at or about the time at which they are entitled to such return-passages, the Governor General in Council may notify in the *Gazette of India* that emigration to such place shall again be allowed from a day to be specified in such notification.

Thereupon all the provisions of this Act authorising emigration to such place shall, from the day so specified, be revived and have the same effect as if such emigration had not been suspended, except as to acts done, offences committed, and proceedings commenced during the time of such suspension.—[Indian Emigration Act, 1871—Act VII of 1871, s. 60.]

Revocation of notification.

329 (*dt*). Such notification may be revoked in like manner by the Governor General in Council, and thereupon emigration to the said Settlements shall again be allowed from a day to be specified in the revocation.

From the day so specified all the provisions of this Act authorising emigration to the said Settlements shall be revived and have the same effect as if such emigration had not been suspended, except as to acts done, offences committed, and proceedings commenced, during the time of such suspension.—[Straits Settlements Emigration Act, 1877—Act V of 1877, s. 38.]

Power to exempt ship from provisions of Act.

329 (*du*). The Local Government may, from time to time, with the previous sanction of the Governor General in Council, for any special reason and subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Act.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 50.[1]]

Power to increase fees.

329 (*dv*). The Governor General in Council may, from time to time, by notification in the *Gazette of India*, increase any fee payable under sections 11, 19, and 31,[2] and may also in like manner reduce to its present amount any fee so increased:

Provided that no fee shall be increased under this section by more than double such amount.—[Indian Emigration Act, 1871—Act VII of 1871, s. 62.]

Special Provisions for Emigration to French Colonies.

Special Provisions for Emigration to French Colonies.

Nomination of Agents for Presidency Towns, Penang.

329 (*dw*). The French Government may nominate a person to be emigration agent under this Act for each of the ports of Calcutta, Madras, and

[1] See Act XVII of 1883, s. 9.

[2] Section 11 refers to fees for licensing depôts; section 19 refers to fees for licenses for recruiters; section 31 refers to fees for the registration of emigrants paid by the recruiter.

Bombay; provided that such person, before entering on the duties of his office under this Act, has been approved by Her Majesty.—[Indian Emigration Act, 1871—Act VII of 1871, s. 63.]

Special Provisions for Emigration to French Colonies.

329 (*Ix*). The protector of emigrants at each of the three British ports aforesaid shall act for the British Government as protector of labourers emigrating under the provisions of this part of this Act.

Protector of emigrants.

In French ports in India the duty imposed on the British Consular agents by article V[1] of the convention, printed in the third schedule hereto annexed, shall be performed under such instructions as may be given by the Governor General in Council in this behalf.—[Indian Emigration Act, 1871—Act VII of 1871, s. 66.]

329 (*Ix*). The Governor General in Council may, by order to be published in the *Gazette of India*, extend this Act to any other French colony not expressly named herein, at which a British Consular agent is established, and to which the application of the said convention[2] shall be extended, and in such order may declare the probable length of the voyage to such colony.

Power to extend Act to French Colony not expressly named.

[1] *Article V, Convention.*—"The Government of Her Britannic Majesty shall appoint in those British ports, where emigrants may be embarked, an agent who shall be specially charged with the care of their interests." In French Ports the same duty with regard to Indian subjects of Her Britannic Majesty shall be confided to the British Consular agent. Under the term "Consular Agents" are comprised Consuls, Vice-Consuls, and all other commissioned Consular officers.

[2] Articles XIV, XV, XXII of the convention between Her Majesty and the Emperor of the French, relative to the emigration of labourers, dated July 1861, are as follows:—

Article XIV.—Every emigrant vessel must carry an European surgeon and an interpreter.

The captains of emigrant vessels shall be bound to take charge of any despatch which may be delivered to them by the British agent at the port of embarkation for the British Consular agent at the port of destination, and to deliver it to the Colonial Government immediately after his arrival.

Article XV.—In every vessel employed for the conveyance of emigrants, subjects of Her Britannic Majesty, the emigrants shall occupy, either between decks, or in cabins on the upper deck firmly secured and entirely covered, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

No compartment shall take more than one adult emigrant for every cubic space of seventy-two feet in the presidency of Bengal and at Chandernagore, and for every cubic space of sixty feet in other French ports, and in the presidencies of Bombay and Madras.

An emigrant above the age of ten years shall count as an adult, and two children from one to ten years of age shall count as one adult.

A place shall be fitted up for a hospital in every emigrant ship.

Women and children shall occupy compartments of the vessel distinct and separate from those of the men.

Article XXII.—All operations of immigration may be carried on in the French colonies by French or British vessels without distinction.

British vessels which may engage in those operations shall be bound to conform to all the measures of police, health, and equipment which may apply to French vessels.

Special Provisions for Emigration to French Colonies.

Such declaration shall have the same effect as if it formed part of this section.—[Indian Emigration Act, 1871—Act VII of 1871, s. 69.]

Vessel to carry European surgeon and interpreter.

329 (*4*). Every emigrant vessel sailing to a French colony shall carry an European surgeon and an interpreter.—[Indian Emigration Act, 1871—Act VII of 1871, s. 70.]

Miscellaneous Matters relating to Emigration and Passenger Ships.

Miscellaneous Matters relating to Emigration and to Passenger Ships.

Probable length of voyages to places mentioned in section twenty-three.

329 (*5a*). The probable length of the voyages to the places mentioned in section twenty-three[1] from Calcutta, Madras, or Bombay, respectively, shall, for the purposes of this Act, and in the case of sailing vessels, be deemed to be as follows:—

FROM CALCUTTA:—	
To Mauritius, Seychelles, and Réunion.	Between the months of April and October, inclusive, ten weeks; and between the months of November and March, inclusive, eight weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, St. Croix, Martinique, Guadeloupe and its dependencies.	Twenty weeks.
To French Guiana	Twenty-six weeks.
To Natal	Twelve weeks.
FROM MADRAS:—	
To Mauritius, Seychelles, and Réunion.	Between the months of April and October, inclusive, seven weeks; and between the months of November and March, inclusive, six weeks.
To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, St. Croix, Martinique, Guadeloupe and its dependencies, and French Guiana.	Nineteen weeks.
To Natal	Ten weeks.
FROM BOMBAY:—	
To Mauritius, Seychelles, and Réunion.	Between the months of April and September, inclusive, five weeks; and between the months of October and March, inclusive, six weeks.

[1] Section 23 is as follows:—

Contracts may be made with natives of India to emigrate to any of the British colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, and Seychelles; to any of the French colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana; and to the Danish colony of St. Croix, and it shall be lawful to enable or assist any native of India to emigrate to any such colony.

By *Gazette of India*, 9th November 1872, p. 1032, the Netherlands colony of Dutch Guiana, and by *Gazette of India*, 19th April 1873, p. 378, the island of Nevis, this power has been extended under s. 24 of Act VII of 1871.

To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, St. Croix, Martinique, Guadeloupe and its dependencies, and French Guiana.	Nineteen weeks.
To Natal	Ten weeks.

Miscellaneous Matters relating to Emigration and Passenger Ships.

In the case of vessels propelled either wholly or in part by steam, the Local Government may, by notification in the official Gazette, fix, for the purposes of this Act, the probable length of the voyages aforesaid.—[Indian Emigration Act, 1871—Act VII of 1871, s. 83.]

329 (*5b*). Every notification under section twenty-four[1] shall state the probable length of the voyages from Calcutta, Madras, and Bombay, respectively, to every place to which emigration is thereby authorised, and thereupon such period shall, for the purposes of this Act, be taken to be the probable length of such voyage.—[Indian Emigration Act, 1871—Act VII of 1871, s. 84.]

Notification legalizing emigration to new place to give probable length of voyages thither.

329 (*5c*). The Local Government may from time to time authorise any person invested with the powers of a magistrate, as defined in the Code of Criminal Procedure, to perform the duties and exercise the powers by this Act assigned to and conferred on the magistrate of the district.

Exercise of powers of magistrate of the district under this Act.

Every person so authorised shall, in all respects, for the purposes of this Act, be deemed to be included in the words "the magistrate."—[Indian Emigration Act, 1871—Act VII of 1871, s. 85.]

329 (*5d*). The chief officer of Customs, or the officer (if any) appointed under this Act at any port or place within British India at which any ship to which this Act applies touches or arrives, shall, with advertence to the provisions herein contained, send any particulars, which he may deem important respecting the ship and the passengers conveyed therein, to the officer at the port from which the ship commenced her voyage, and also to the officer at any other port within British India where the passengers or any of them embarked.

Information to be sent to ports of embarkation.

And any officer appointed under this Act may, at any port or place in British India at which any ship to which this Act applies touches, board such ship and inspect her in order to ascertain whether the provisions of this Act as to the number of passengers and otherwise have been complied with.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 44.]

329 (*5e*). In any proceeding for the adjudication of any penalty incurred under this Act, any document purporting to be a report of such particulars or a copy of the proceedings of any court of justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising Consular authority on behalf of Her Majesty in any foreign port, shall be received in evidence, if the same appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 45.]

Report of Consul.

[1] For s. 24 see note to s. 329 (*1a*).

Miscellaneous Matters relating to Emigration and Passenger-Ships.

Appointment of officers.

329 (5f). The Local Government shall appoint such persons as it thinks fit to exercise and perform the powers and duties conferred and imposed by this Act.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 47.]

Fines, fees, and rates to be credited to "Inland Labour Transport Fund."

329 (5g). Subject to the power of a magistrate under this Act or the Code of Criminal Procedure to award fines in whole or in part as compensation to or for the benefit of any complainant or other person, the Local Government shall credit all fines, fees and rates levied and paid under this Act in the territories under its administration to a fund which shall be called the "Inland Labour Transport Fund;" and such fund shall be at the disposal of such Local Government, in such manner as the Government of India may direct, for paying the salaries and allowances of all officers and establishments appointed under this Act by such Local Government and their pensionary and leave allowances, and generally for defraying the expenses of carrying out the purposes of this Act and the rules of the Local Government made hereunder. The annual surplus accruing in such fund shall be applied to reducing the annual rate or the registration-fees leviable under this Act, and not otherwise.—[Inland Emigration Act, 1882—Act I of 1882, s. 192.]

Power to the Governor General of India in Council, by any Act to be passed for that purpose, to bring this Act for India, and to make rules respecting food, passengers, &c.;

329 (5h). This Act shall not apply to any of the territories or places under the government of the East India Company.—It shall, however, be lawful for the Governor General of India in Council, from time to time by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage from any ports or places within such territories, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts; and also in like manner to authorise the substitution, as respects such voyages, of other articles of food and provisions for those hereinbefore enumerated; and to declare the rule of computation by which the length of any such voyage shall be estimated; and to determine the persons or officers who in such territories shall be entitled to exercise or perform the powers, functions, or duties hereinbefore given to or imposed upon the emigration officers and officers of Customs in the United Kingdom; and to authorise the employment on board any ship of a medical practitioner duly qualified by law to practise as a physician, surgeon, or apothecary within such territories; and to declare for the purposes of this Act the space necessary for passengers, and the age at which two children shall be considered equal to one statute adult, in ships that may clear out from any port or place within such territories; and also to declare in what manner and before what authorities, and by what form of proceedings, the penalties imposed and the sums of money made recoverable by this Act shall be sued for and recovered within such territories, and to what uses such penalties shall be applied: And on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be

and to declare in what manner penalties, &c., may be sued for and recovered.

specified; and the same shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced: every such Indian Act shall be subject to disallowance and repeal, and shall in the same manner be transmitted to England, to be laid before both Houses of Parliament, as in the case of any other law made by the Governor General in Council.—[Passengers' Act, 1852[1] 15 & 16 Vic., c. 44, s. 87.]

Miscellaneous Matters relating to Emigration and Passenger Ships.

Indian Act may be enforced in the colonies in like manner as this Act.

Power of the Governor General of India in Council, by any Act to be passed for that purpose, to adopt this Act for India, and to make rules respecting food, passengers, surgeons, &c.

329 (*5i*). This Act shall not apply to any of the territories or places under the government of the East India Company: It shall, however, be lawful for the Governor General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage from any ports or places within such territories, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts; and also in like manner to authorise the substitution, as respects such voyages, of other articles of food and provisions for those hereinbefore enumerated; and to declare the rule of computation by which the length of any such voyage shall be estimated; and to determine the persons or officers who in such territories shall be entitled to exercise or perform the powers, functions, or duties hereinbefore given to or imposed upon the emigration officers and officers of Customs in the United Kingdom; and to authorise the employment on board any ship of a medical practitioner duly qualified by law to practise as a physician, surgeon, or apothecary within such territories; and to declare for the purposes of this Act the space necessary for passengers, and the age at which two children shall be considered equal to one statute adult, in ships that may clear out from any port or place within such territories; and also to declare in what manner, and before what authorities, and by what form of proceedings, the penalties imposed and the sums of money made recoverable by this Act shall be sued for and recovered within such territories, and to what uses such penalties shall be applied: And on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced: Every such Indian Act shall be subject to disallowance and repeal, and shall in the same manner be transmitted to England, to be laid before both Houses of Parliament, as in the case of any other law made by the Governor General in Council.—[Passengers' Act Amendment Act, 1855, 18 & 19 Vic., c. 119, s. 99.]

and to declare in what manner penalties, &c. may be sued for and recovered.

Indian Act may be enforced in the colonies in like manner as this Act.

[1] This Act has been repealed in England by 18 & 19 Vic., c. 119 (Passengers' Act, 1855); and it appears that the Governor General of India in Council has not either previously or subsequently to such repeal adopted the whole or any part of the Act for India; considering the nature of the Act (it being, as far as India is concerned, an enabling one only), it would appear somewhat doubtful if the power could be now made use of.

Miscellaneous Matters relating to Emigration and Passengers' Ships.

Transfer to Board of Trade of duties of commissioners with proviso as to measurement of ships.

329 (*5i*). The fourteenth section of the Merchant Shipping Act Amendment Act, 1855, shall be read and construed as if the Board of Trade were therein named instead of the Commissioners of Customs.—[Merchant Shipping Act, 1872, 35 & 36 Vic., c. 73, part of s. 3.]

Transfer to Board of Trade of duties of emigration commissioners.

329 (*5k*). The sixth and seventh sections of the Passengers' Act, 1855, except so much of the latter section as provides for the immunity of emigration officers, shall be repealed, and all powers and duties vested in or imposed on the emigration commissioners by the Passengers' Act Amendment Acts 1863, shall be transferred to and imposed on the Board of Trade.

In the construction and for the purposes of the said Acts, the name of the Board of Trade shall be deemed to be substituted for the name of the emigration commissioners, and anything which might, if this Act had not passed, have been done by the emigration commissioners, whether acting independently or under the sanction or authority of one of Her Majesty's Principal Secretaries of State, may be done by the Board of Trade independently of such sanction or authority.—[Merchant Shipping Act, 1872, 35 & 36 Vic., c. 73, s. 5.]

Extension of provisions for offences connected with applications for assistance under Acts.

329 (*5l*). The provisions contained in the eighty-third section of the Passengers' Act, 1855, shall extend to any forms of application or other paper issued by or under the authority of one of Her Majesty's Principal Secretaries of State, for the use of persons desirous of emigrating by his assistance, and to any certificate, document, or statement adduced in support of any application to such Secretary for such assistance.—[Merchant Shipping Act, 1872, 35 & 36 Vic., c. 73, s. 6.]

Penalty on surveyor, &c., receiving gratuity, &c., in addition to fees prescribed under this Act.

329 (*5m*). If any surveyor or person employed under the authority of the Passengers' Act, 1855, demands or receives directly or indirectly, otherwise than by the direction of the Board of Trade, any fee, remuneration or gratuity whatever in respect of any of the duties performed by him under the Act or the Acts amended hereby, he shall for every such offence incur a penalty of not exceeding fifty pounds.—[Merchant Shipping Act, 1872, 35 & 36 Vic., c. 73, s. 15.]

Provision against double survey in case of passenger steamers and emigrant ships.

329 (*5n*). In every case where a passenger certificate has been granted to any steamer by the Board of Trade under the provisions of the Merchant Shipping Act, 1854, and remains still in force, it shall not be requisite for the purposes of the employment of such steamer under the Passengers' Act that she shall be again surveyed in her hull and machinery in order to qualify her for service under the Passengers' Act, 1855, and the Acts amending the same, but for the purposes of employment under those Acts, such Board of Trade certificate shall be deemed to satisfy the requirements of the Passengers' Act with respect to such survey, and any further survey of her hull and machinery shall be dispensed with, and so long as a

steam ship is an emigrant ship, that is a passenger ship within the meaning of the Passengers' Act, 1855, and the Acts amending the same, and the provisions contained in the said Passengers' Acts as to the survey of her hull and machinery, and equipments have been complied with, she shall not be subject to the provisions of the Merchant Shipping Act, 1854, with respect to the survey of and certificate for passenger steamers or to the enactments amending the same.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 18.]

Miscellaneous Matters relating to Emigration and Passenger Ships.

329 (*5o*). Where a foreign ship is a passenger ship subject to the Merchant Shipping Act, 1854, and the Acts amending the same, or an emigrant ship subject to the Passengers' Act, 1855, and the Acts amending the same, and the Board of Trade are satisfied, by a production of a foreign certificate of survey attested by a British Consular officer at the port of survey, that such ship has been officially surveyed at a foreign port, and are satisfied that the requirements of the said Acts, or any of them, are proved by such survey to have been substantially complied with, the Board may, if they think fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give or direct one of their officers to give a certificate, which shall have the same effect as if given upon survey under the said Acts or any of them; provided that Her Majesty may by order in Council direct that this section shall not apply in the case of an official survey at any foreign port at which it appears to Her Majesty that corresponding provisions are not extended to British ships.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 19.]

Provision as to survey of foreign passenger steamer or emigrant ship.

329 (*5p*). It shall be lawful for the Board of Trade, if satisfied that the food, space, accommodation, or any other particular or thing provided in an emigrant ship for any class of passengers is superior to the food, space, accommodation, or other particular or thing required by the Passengers' Act, 1855, and the Acts amending the same, to exempt such ship from any of the requirements of those Acts with respect to food, space, or accommodation, or other particular or thing, in such manner and upon such conditions as the Board of Trade may think fit.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 20.]

Power to modify Passengers' Acts as to food, space, and accommodation in emigrant ships.

Penalties under the Emigration and Native Passenger Ships Act.

Penalties under Emigration and Native Passenger Ships Act.

329 (*5q*). The master of any vessel which has not been licensed as provided in section forty,[1] knowingly receiving any emigrant on board in order to convey such emigrant to any place contrary to the provisions of this Act, shall be liable to imprisonment for a period not exceeding one year, and also

For receiving emigrants in unlicensed vessel.

NOTE.—Sections 329 (*5f*), 329 (*5k*), 329 (*5l*), 329 (*5m*), 329 (*5n*), 329 (*5o*), and 329 (*5p*) are here inserted with reference to 18 & 19 Vic., c. 119, which the Governor General in Council has power to adopt for India.

[1] 329 (*1n*).

Penalties under Emigration and Native Passenger Ships Act.

to a fine not exceeding one thousand rupees for every such emigrant received on board, and the vessel shall be liable to be forfeited.—[Indian Emigration Act, 1871—Act VII of 1871, s. 76.]

For clearing ship without complying with rules.

329 (*5r*). If the master of any vessel, at the port of Calcutta, the port of Madras, or the port of Bombay, clears such vessel for any place to which emigration is lawful under this Act, and takes on board any emigrant without having fully complied with every particular required in sections forty-one[1] and forty-two,[2] he shall be liable to a fine not exceeding two hundred rupees for every emigrant so taken on board.—[Indian Emigration Act, 1871—Act VII of 1871, s. 77.]

Master receiving native passengers on board in contravention of Act.

329 (*5s*). Any master not licensed under section eighty-nine[3] who, in contravention of section eighty-seven,[4] knowingly receives on board his vessel more than twenty passengers being natives of India, and

any master licensed as aforesaid who knowingly receives on board his vessel any such passengers in excess of the number specified in his license or on any order of an embarkation agent under section ninety-one, for the purpose of transporting them to a labour-district,

shall be punished with fine which may extend to two hundred rupees for each passenger so received.

Nothing in this section applies to the master of a vessel exempted under section eighty-seven.—[Inland Emigration Act, 1882—Act I of 1882, s. 154.][5]

For taking on board after clearance emigrants not entered in list.

329 (*5t*). If the master of any vessel, after having cleared such vessel for any place to which emigration is lawful under this Act, takes on board any emigrant without such emigrant having been duly entered in the lists mentioned in sections forty-nine and fifty,[6] and in the manner in those sections prescribed, he shall be liable to a fine not exceeding two hundred rupees for every emigrant so taken on board.—[Indian Emigration Act, 1871—Act VII of 1871, s. 78.]

Penalty for non-compliance with requirements as to list of passengers.

Penalty for failing to obtain fresh certificate for additional passengers taken.

329 (*5u*). Any master failing to comply with any of the requirements of section twenty-three[7] or section twenty-four,[8] as to the statement of passengers, or wilfully making any false entry or note in or on any such statement, or wilfully failing to obtain any such supplementary certificate as is mentioned in section twenty,[9] or to report deaths as required by section twenty-

[1] 329 (*1e*).

[2] 329 (*1x*).

[3] 329 (*1q*).

[4] 329 (*1o*).

[5] Abetting within the meaning of the Indian Penal Code any offence against this Act or a rule under it is punishable with the same punishment provided for the offence.—[Act I of 1882, s. 187.]

[6] 329 (*2g*) and 329 (*2k*).

[7] 329 (*3e*).

[8] 329 (*3w*).

[9] 329 (*3r*).

one,[1] or to obtain any such fresh certificate, or to make any such statement of the number of additional passengers, as is mentioned in section twenty-five,[2] shall be liable to a fine not exceeding five hundred rupees for every such offence, or to imprisonment for a term not exceeding three months, or to both.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 32.]

Penalties under Emigrants and Native Passenger Ships Acts.

329 (5*e*). If any ship has on board any number of passengers which, having regard to the time of the year and other circumstances, is greater than the number allowed by the certificate, or, if arriving from a port where no certificate could be procured, has on board a number of passengers exceeding the number allowed by this Act for such ship, the owner and master shall, for every passenger over and above the number allowed by the certificate, be each liable to a fine not exceeding twenty rupees, and the master shall further be liable for each of such passengers to imprisonment not exceeding one week: Provided that the total term of imprisonment awarded under this section shall in no case exceed six months.

Penalty for excess of number specified in certificate.

Any officer authorised in this behalf by the Local Government may cause all passengers over and above such number to disembark, and may forward them to any port of British India, and may recover the cost of so forwarding them from the owner or master of the ship as if such cost was a fine imposed under this Act, and a certificate under the hand of such officer shall be conclusive evidence of the amount of the cost aforesaid.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 36.]

329 (5*e*). Any master of a vessel not licensed as provided in section thirty-three[3] who knowingly receives on board, for conveyance to the said Settlements, any emigrant or person who has entered into a contract hereby declared illegal,

Receiving emigrants on board without license or certificate.

and any master of a vessel licensed as aforesaid, who knowingly receives any emigrant as aforesaid, without having previously obtained a certificate under the said section, or in excess of the number specified in such certificate,

shall be liable for each emigrant or person so received to imprisonment for a term which may extend to three months, or to fine not exceeding two hundred rupees, or to both, and the vessel shall be liable to be forfeited.—[Straits Settlements Emigration Act, 1877—Act V of 1877, s. 42.]

329 (5*x*). Any master of a vessel who receives on board such vessel any emigrant for the said Settlements and fails to comply with the requirements of sections thirty-four[4] and thirty-six[5] shall be liable to a fine not exceeding two hundred rupees.—[Straits Settlements Emigration Act, 1877—Act V of 1877, s. 43.]

Failure to comply with requirements of sections 33 and 36.

329 (5*y*). Any master of a vessel who, having cleared such vessel for the said Settlements, takes on board any emigrant not entered in the list mentioned in section thirty-six[6] shall be liable to a fine not exceeding two

Taking on board after clearance emigrants not entered in list.

[1] 329 (3*s*).
[2] 329 (5*x*).
[3] 329 (1*r*).
[4] 329 (2*h*).
[5] 329 (2*f*).
[6] 329 (2*f*).

Penalties under Emigration and Native Passenger ships Acts.

hundred rupees for every emigrant so taken on board.—[Straits Settlements Emigration Act, 1877—Act V of 1877, s. 45.]

For fraudulently acts whereby certificate becomes inapplicable to vessel.

329 (*5e*). If, after having obtained a certificate in accordance with the provisions of section forty,[1] the master of any vessel cleared for any place to which emigration is lawful under this Act fraudulently does, or suffers to be done, any act or thing whereby such certificate becomes inapplicable to the altered state of the vessel or other matter to which such certificate relates, he shall be liable to a fine not exceeding five thousand rupees,

and he may also be sued on any bond which he may have executed in consideration of any license obtained for the vessel as originally described.—[Indian Emigration Act, 1871—Act VII of 1871, s. 79.]

Penalty for fraudulent alteration in ship after certificate obtained.

329 (*6a*). Any master who, after having obtained any of the certificates mentioned in section nine,[2] or section twenty,[3] or section twenty-five,[4] fraudulently does or suffers to be done any thing whereby such certificate becomes inapplicable to the altered state of the ship, her passengers, or other matters to which such certificate relates, shall be liable to a fine not exceeding two thousand rupees, or to imprisonment not exceeding six months, or to both.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 33.]

Fraudulent alteration of vessel after grant of license.

329 (*6b*). Any master licensed under section eighty-nine[5] who with intent to defraud does or suffers to be done any act or thing whereby the state of his vessel is altered, so that such vessel is unfit for the accommodation of the number of passengers specified in his license or in any order made under section ninety-one[6] by an embarkation agent, shall be punished with fine which may extend to two hundred rupees.—[Inland Emigration Act, 1882—Act I of 1882, s. 155.]

For proceeding to sea without steam.

329 (*6c*). If the master of a vessel sailing from the port of Calcutta, licensed under section forty[7] and sailing with emigrants on board, without reasonable excuse causes or allows his vessel to proceed from Garden Reach to sea, or to proceed to any part of the distance between Garden Reach and sea without his vessel being under tow of a competent steamer,

or if such vessel has not left Garden Reach and proceeded on her voyage, within the time prescribed in section fifty-two,[8]

the master of such vessel shall be liable to a fine not exceeding one thousand rupees.—[Indian Emigration Act, 1871—Act VII of 1871, s. 80.]

Penalty on owner and master of certain ships not propelled by steam.

329 (*6d*). If any ship sailing from or to any port in British India to or from any port in the Red Sea is not principally propelled by steam, the owner and master shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or

[1] 329 (*1a*).
[2] 329 (*3f*).
[3] 329 (*3c*).
[4] 329 (*3x*).
[5] 329 (*1q*).
[6] 329 (*1t*).
[7] 329 (*1a*).
[8] 329 (*2m*).

with both.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 38C.][1]

Penalties under Emigration and Native Passenger Ships Act.

329 (*6e*). If any ship sailing from or to any port in British India, to or from any port in the Red Sea, and carrying more than one hundred passengers, has not on board a medical officer as required by section 28A,[2] the master of the ship shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 38B.][3]

Penalty on master of certain ships sailing without medical officer.

329 (*6f*). If the master of any ship, while a direction under section 28C[4] is in force, knowingly receives on board his ship any person in contravention of that section or of the direction, he shall be punished with imprisonment which may extend to three months or with fine which may extend to five hundred rupees for each person so received, or with both.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 38D.][5]

Penalty on master for receiving passenger in contravention of section 28C.

329 (*6g*). If the master of any such ship as is referred to in section twenty-seven[6] or any medical officer in charge of any such ship wilfully breaks or omits to obey or neglects to obey, any rule with regard to those ships made under section forty-six,[7] he shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 38A.][8]

Penalty on master or medical officer wilfully breaking or omitting to obey or neglecting to obey rules.

329 (*6h*). The master of any ship described in section twenty-seven[9] who wilfully fails to touch at Aden, or leaves that port without having obtained the bill of health therein mentioned, shall, for every such offence, be liable to a fine not exceeding two thousand rupees, or to imprisonment not exceeding six months, or to both.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 35.]

Penalty for not obtaining bill of health.

329 (*6i*). Any master licensed as aforesaid who wilfully omits to comply with the provisions of section ninety-nine shall be punished with fine which may extend to two hundred rupees.—[Inland Emigration Act, 1882—Act I of 1882, s. 159.]

Master or officer wilfully omitting to stop vessel at certain places.

329 (*6j*). Any person who disobeys any order made under section one hundred and one[10] by a magistrate shall be punished with fine which may extend to two hundred rupees.—[Inland Emigration Act, 1882—Act I of 1882, s. 160.]

Person disobeying magistrate's order as to communication between vessel and land.

329 (*6k*). Any master licensed as aforesaid, or any medical officer in charge of his vessel, who wilfully omits or neglects to obey or enforce on board of such vessel, any provision of this Act or any rule made hereunder, shall be

Master or medical officer disobeying or neglecting to enforce rules.

[1] Act XVII of 1883, s. 7.
[2] 329 (*4b*).
[3] Act XVII of 1883, s. 7.
[4] 329 (*4b*).
[5] Act XVII of 1883, s. 7.
[6] 329 (*3z*).
[7] 329 (*4m*).
[8] Act XVII of 1883, s. 7.
[9] 329 (*3z*).
[10] 329 (*3n*).

Penalties under Emigration and Native Passenger Ships Acts.

punished with fine which may extend to two hundred rupees.—[Inland Emigration Act, 1882—Act I of 1882, s. 161.]

Penalty for bringing native passengers from Eastern ports in excess of authorised proportion.

329 (*6l*). If any ship bringing native passengers from any port or place beyond British India into any port or place in British India, has on board a greater number of passengers than in the proportion prescribed by section nineteen,[1] section twenty-two[2], or section forty-nine[3] (as the case may be), or than the number allowed by the license or certificate (if any) granted in respect of such ship at her port or place of departure, the owner and master shall, for every passenger in excess of such proportion or of the number so allowed, be each liable to a fine not exceeding twenty rupees.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 37.]

Penalty for landing passenger at a place other than that at which he has contracted to land.

329 (*6m*). If the master of any ship to which this Act applies lands any passenger at any port or place other than the port or place at which he may have contracted to land, unless with his previous consent, or unless such landing is made necessary by perils of the sea or other unavoidable accident, the master shall, for every such offence, be liable to a penalty not exceeding two hundred rupees, or to imprisonment for any term not exceeding a month, or to both.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 38.]

Penalty for landing emigrant or dependent at other than specified port.

329 (*6n*). Any master of a vessel landing any emigrant or dependent at any port other than the port of debarkation specified in embarkation-pass and list, unless in case of stress of weather or other unavoidable accident, shall be liable for every emigrant or dependent so landed to a fine not exceeding two hundred rupees, or to imprisonment for a term which may extend to one month, or to both.—[Straits Settlements Emigration Act, 1877—Act V of 1877, s. 44.]

Master permitting labourer to leave vessel contrary to section 98.

329 (*6o*). Any master licensed as aforesaid causing or permitting a labourer finally to leave his vessel contrary to the provisions of section ninety-eight[4] shall be punished with fine which may extend to two hundred rupees for each labourer so leaving his vessel.—[Inland Emigration Act, 1882—Act I of 1882, s. 158.]

For clearing ship without complying with rules.

329 (*6p*). If the master of any vessel, at the port of Calcutta, the port of Madras, or the port of Bombay, clears such vessel for any place to which emigration is lawful under this Act, and takes on board any emigrant without having fully complied with every particular required in sections forty-one and forty-two,[5] he shall be liable to a fine not exceeding two hundred rupees for every emigrant so taken on board.—[Indian Emigration Act, 1871—Act VII of 1871, s. 77.]

Master not complying with section 91.

329 (*6q*). Any master licensed as aforesaid who proceeds on his voyage with his vessel carrying labourers without having complied with the provi-

[1] S. 329 (*3g*).
[2] S. 329 (*3l*).
[3] S. 329 (*3u*).
[4] S. 329 (*2s*).
[5] S. 329 (*1a*) and s. 329 (*1c*).

sions of section ninety-four[1] shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months.—[Inland Emigration Act, 1882—Act I of 1882, s. 156.]

Penalties under Emigration and Native Passenger Ships Act.

329 (*6r*). Any master wilfully, and without satisfactory excuse, omitting to supply to any passenger the allowance of food, fuel, and water prescribed by rule made under this Act and for the time being in force shall be liable to a fine not exceeding twenty rupees for every passenger who has sustained detriment by such omission.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 34.]

Penalty for failing to supply passengers with prescribed provisions.

329 (*6s*). Any master licensed as aforesaid who fails to comply with an order of an embarkation agent made under section ninety-six[2] shall be punished with fine which may extend to two hundred rupees for each day during which he fails to comply with such order after the day on which the order was received by him.—[Inland Emigration Act, 1882—Act I of 1882, s. 157.]

Master not complying with order under section 96.

329 (*6t*). Any owner or master wilfully failing to comply with the requirements of section seventeen[3] as to copies of certificates shall, for every such failure, be liable to fine not exceeding two hundred rupees, or to imprisonment for any term not exceeding a month, or to both.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 31.]

Penalty for not exhibiting copy of certificate.

329 (*6u*). If any ship departs or proceeds upon a voyage from, or discharges passengers at, any port or place within British India in contravention of the provisions of section six[4] or section nine,[5]

Penalty for ship unlawfully departing.

or if any person is received as a passenger on board a ship in contravention of the provisions of the second clause of section six,[4]

the owner or master shall, for every passenger conveyed in such ship, or for every passenger so discharged or received on board, be liable to a penalty not exceeding one hundred rupees, or to imprisonment not exceeding one month, or to both;

and the ship, if found within two years in any port within British India, may be seized and detained by any chief officer of Customs until the penalties incurred under this Act by her owner or master have been adjudicated, and the payment of the fines imposed on him under this Act, with all costs, has been enforced, under the provisions hereinafter contained.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 29.]

329 (*6v*). Any person impeding or refusing to allow the entry or inspection authorised under this Act, shall be liable to a fine not exceeding five hundred rupees for each offence, or to imprisonment for a term not exceeding

Penalty for opposing entry on or inspection of ships.

[1] S. 329 (*1r*).
[2] S. 329 (*2q*).
[3] S. 329 (*3m*).
[4] S. 329 (*3s*).
[5] S. 329 (*3t*).

Procedure under Emigration and Native Passenger Ships Act.

three months, or to both.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 30.]

Procedure under the Emigration Acts and Native Passenger Ships Act.

Customs officers may search and detain for purposes of this Act.

329 (*6w*). All the powers vested by law in the officers of Customs in regard to the searching and detention of vessels, or otherwise, for the prevention of smuggling on board thereof, may be exercised by such officers for the prevention of the illegal embarkation of emigrants on board vessels bound for any place to which emigration is lawful under this Act, and of other offences against this Act.—[Indian Emigration Act, 1871—Act VII of 1871, s. 81.]

Customs officers may search and detain for purposes of this Act.

329 (*6x*). All the powers vested by law in the officers of Customs in regard to the searching and detention of vessels, or otherwise, for the prevention of smuggling on board thereof, may be exercised by such officers for the prevention and detection of the illegal embarkation of emigrants on board vessels bound for the said Settlements and of other offences against this Act.—[Straits Settlements Emigration Act, 1877—Act V of 1877, s. 47.]

Adjudication of offences.

329 (*6y*). All offences against this Act shall be punishable in a summary manner by a magistrate.

Fine leviable by distress on ship.

If the person on whom any fine is imposed under this Act is the master or owner of a ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the magistrate may, in addition to the ordinary means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the said ship, her tackle, furniture and apparel.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 39.]

Jurisdiction.

329 (*6z*). For the purpose of the adjudication of penalties under this Act, every offence against its provisions shall be deemed to have been committed within the limits of the jurisdiction of the magistrate of the place where the offender is found.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 40.]

By whom proceedings for penalties to be instituted.

329 (*7a*). The penalties to which masters and owners of ships are made liable by this Act shall be enforced only by information laid at the instance of the officers appointed to grant certificates under this Act; or, at any port or place where there is no such officer, at the instance of the chief officer of Customs.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 41.]

Application of fines.

329 (*7b*). Any magistrate imposing any fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which such fine is imposed, or in or towards payment of the

expenses of the proceedings.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 42.]

Penalties under Emigration and Native Passenger Ships Acts.

329 (7*e*). All prosecutions under this Act shall be instituted on information laid at the instance of an emigration agent, or of a protector of emigrants, or of an officer appointed for the purpose by the Local Government, before a magistrate of police, or before a magistrate, according as they shall be instituted for offences committed within or for offences committed beyond the limits of the towns of Calcutta, Madras, and Bombay.

Prosecutions under this Act where and how instituted.

All fines imposed under this Act may be recovered, if for offences committed outside the limits of the said towns, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the police of such towns in force for the time being.—[Indian Emigration Act, 1871—Act VII of 1871, s. 82.]

Mode of recovering fines.

329 (7*d*). All prosecutions under sections 42, 43, 44, and 45[1] shall be instituted by the emigration agent, or by the protector of emigrants, or by an officer appointed for the purpose by the Local Government.—[Straits Settlements Emigration Act, 1877—Act V of 1877, s. 46.]

Prosecutions under Act by whom instituted.

329 (7*e*). Whoever commits any offence against this Act or any rule made hereunder shall be triable for such offence in any place in which he may be found as well as in any other place in which he might be tried under any law for the time being in force.—[Inland Emigration Act, 1882—Act I of 1882, s. 188.]

Place of trial for offences.

329 (7*f*). Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made hereunder, or from being liable under any other law to any penalty higher than that provided by this Act for such offence: Provided that no person shall be punished twice for the same offence.—[Inland Emigration Act, 1882—Act I of 1882, s. 189.]

Saving of prosecutions under other laws.

329 (7*g*). Whenever, in the course of any legal proceeding under this Act, the testimony of any witness is required in relation to the subject-matter of such proceeding, any deposition that he may have previously made in relation to the same subject-matter before any justice or magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the port or place where such proceedings are instituted) or any British Consular officer elsewhere, shall be admissible in evidence on due proof that such witness cannot be found within the jurisdiction of the court in which such proceeding is instituted:

Depositions receivable when witness cannot be produced.

Provided that such deposition shall not be admissible unless—

(*a*) it is authenticated by the signature of the justice, magistrate, or consular officer;

(*b*) it was made in the presence of the person accused; and

Evidence under Examination and Native Passenger Ships Act.

(c) the fact that it was so made is certified by the justice, magistrate, or Consular officer.

It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding, such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.—[Native Passenger Ships Act, 1876—Act VIII of 1876, s. 43.]

PART V.

PILOTAGE.

Application.

Signals for Pilots.

330. The fifth part of this Act shall apply to the United Kingdom only.[1]

Signals to be made by Ships wanting a Pilot.

Signals for pilots.

330*a*. If a vessel requires the services of a pilot, the signals to be used and displayed shall be those specified in the second schedule to this Act.

Any master of a vessel who uses or displays, or causes or permits any person under his authority to use or display, any of the said signals for any other purpose than that of summoning a pilot, or uses or causes or permits any person under his authority to use any other signal for a pilot, shall incur a penalty not exceeding twenty pounds.

SCHEDULE II.

In the day time.—The following signals, numbered 1 and 2, when used or displayed together or separately, shall be deemed to be signals for a pilot in the day time, *viz.*—

1. To be hoisted at the fore, the jack or other national colour usually worn by merchant ships, having round it a white border, one-fifth of the breadth of the flag; or
2. The international code pilotage signal indicated by P. T.

At night.—The following signals, numbered 1 and 2, when used or displayed together or separately, shall be deemed to be signals for a pilot at night, *viz.*—

1. The pyrotechnic light commonly known as a blue light every fifteen minutes; or
2. A bright white light, flashed or shown at short or frequent intervals just above the bulwarks, for about a minute at a time.

[Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 19.]

Power to alter rule as to signals.

330*b*. Her Majesty may from time to time by order in Council repeal or alter the rules as to signals contained in the schedules to this Act, or make new rules in addition thereto, or in substitution therefor, and any alterations in or additions to such rules made in manner aforesaid shall be of the same

[1] The rest of Part V of the principal Act is omitted as not applying to India.

force as the rules in the said schedules.—[Merchant Shipping Act, 1873, 36 & 37 Vict., c. 85, s. 20.]

Signals for Pilots.

Signals to be hoisted on Requisition of Pilot.

Signals on Requisition of Pilots.

Master to hoist number of vessel.

330c. The master of every inward or outward-bound vessel, on arriving within signal-distance of any signal-station established within the limits of the river Hugli, or within the limits of any part of a river or channel subject to this Act shall, on the requisition of the pilot in charge of the vessel, signify the name of the vessel by hoisting the number by which she is known, or by adopting such other means to this end as may be practicable and usual, and shall keep the signal flying until it is answered from the signal-station.—[Indian Ports Act, 1875—Act XII of 1875, s. 62.]

Penalty for not hoisting signal.

330d. Any master of a vessel arriving as aforesaid, who refuses or neglects to conform to the above rule, shall be liable, on conviction, for each instance of such refusal or neglect, to a fine not exceeding one thousand rupees.—[Indian Ports Act, 1875—Act XII of 1875, s. 63.]

Pilot to require master to hoist signal.

330e. Every pilot in charge of a vessel shall require the number of the vessel of which he is in charge to be duly signalled as provided under section sixty-two.

Pilot may anchor if master refuses.

When, on a requisition from the pilot to that effect, the master of a vessel refuses to hoist the number of a vessel, or to adopt such other means of making her name known as may be practicable and usual, the pilot in charge of such vessel may, on arrival at the first place of safe anchorage, anchor the vessel and refuse to proceed on his course until the requisition has been complied with.—[Indian Ports Act, 1875—Act XII of 1875, s. 64.]

Punishment of pilot disobeying provisions of this chapter.

330f. Any pilot in charge of a vessel who disobeys, or abets within the meaning of the Indian Penal Code disobedience to, any of the provisions of this chapter,[1] shall be liable to a penalty not exceeding five hundred rupees for each instance of such disobedience or abetment, and in addition shall be liable to dismissal from his appointment.—[Indian Ports Act, 1875—Act XII of 1875, s. 65.]

Pilots on the Indus.

Establishment of Pilots and Pilot-boats on the Indus.

Establishment of pilots and pilot-boats to be maintained.

330g. There shall be maintained such establishment of pilots and pilot-boats, near the mouth of the river Indus, as the Commissioner in Sindh may, from time to time, direct.—[Registry of Vessels on the Indus—Bom: Act I of 1863, s. 8.]

Establishment at what places to be available.

330h. The establishment of pilots and pilot-boats shall, when necessary, be available at such place or places on the tidal channels between the port of Gizri and the river Indus, as the Commissioner in Sindh may, from time to time, direct.—[Registry of Vessels on the Indus—Bom: Act I of 1863, s. 10.]

[1] Chapter VII of the Indian Ports Act refers to the hoisting of signals.

Pilots on the Indus.

Commissioner in Sindh to appoint and suspend persons and to make necessary rules.

330*i*. It shall be lawful for the Commissioner in Sindh, with the sanction of the Governor in Council, from time to time, to appoint such person or persons, and to suspend and remove the same, and to make such rules as may be necessary for carrying out the provisions of this Act; provided that all such rules shall be notified in the Government Gazette.—[Registry of Vessels on the Indus—Bom: Act I of 1863, s. 15.]

Control of Pilots.

Control of Pilots.

Control of pilots within the port.

330*j*. Within the limits of the port, pilots in charge of vessels shall obey all lawful orders issued to them by the Commissioners in respect to such vessels.—[Rangoon Port Commissioners' Act, 1879—Act XV of 1879, s. 17.]

Trustees vested with right and privilege of maintaining pilots.

330*k*. The Board shall have the right and privilege of maintaining pilots for the navigation of vessels at the port, and all fees for pilotage shall be paid to the Board: Provided that no person shall be appointed to be a pilot by the Board who is not for the time being authorised by Government, under the provisions of the Indian Ports Act, 1875, to pilot vessels.

The Board may also, from time to time, make such bye-laws and regulations as they shall think fit—

(*a*) for fixing and regulating the wages and allowances for pilotage to be received by pilots; and

(*b*) for regulating the behaviour and conduct of pilots; and shall enforce the observance of such bye-laws and regulations, by the imposition of pecuniary penalties not exceeding two hundred rupees for each offence, or by suspension or deprivation of appointment, or otherwise, as to them may appear expedient: Provided that such bye-laws shall first have been approved by Government and published in the manner directed by section 74.—[Bombay Port Trust Act, 1879—Bom: Act VI of 1879, s. 72.]

Licensing of pilots.

330*l*. The Chief Commissioner may, from time to time, appoint, or cause to be appointed, competent persons for the purpose of examining the qualifications of persons desirous of acting as pilots at any port, and make rules—

(*a*) for the conduct of the examinations and for the qualifications to be required;

(*b*) establishing grades of pilots, and determining the duties which may be undertaken by pilots of each grade;

(*c*) for the grant to qualified persons of licenses to act as pilots of any grade at any port; and

(*d*) for the fees to be paid for the examinations and licenses.—[British Burma Pilots Act, 1883[1]—Act XII of 1883, s. 3.]

[1] This Act extends to the territories administered by the Chief Commissioner of British Burma and comes into force on such date as the Chief Commissioner may fix on that behalf.—[Section 1, Act XII of 1883.]

Control of Pilots.

No person to act as pilot except under license.

330*m*. (1) A person shall not act as a pilot at any port, after such date as the Chief Commissioner may fix in this behalf for that port, except as permitted by a license granted under section three.

(2) Any person acting as a pilot in contravention of this section shall be punished, for every time he so acts, with fine which may extend to two hundred rupees.—[British Burma Pilots Act, 1883—Act XII of 1883, s. 4.]

Power to make rules to regulate conduct of pilots.

330*n*. (1) The Chief Commissioner may, from time to time, by notification in the *British Burma Gazette*, make rules to regulate the conduct of pilots licensed under this Act in all matters connected with the performance of their duties as such pilots.

(2) Any such rule may contain a provision that a pilot committing a breach of the rule shall be punished with imprisonment which may extend to one month, or with fine which may extend to two hundred rupees, or with both:

Provided that a prosecution shall not be instituted in respect of any such breach except by order of such officer as the Chief Commissioner may, from time to time, appoint in this behalf.—[British Burma Pilots Act, 1883—Act XII of 1883, s. 5.]

Pilotage Accounts.

Pilotage Accounts.

Expenditure of fees and fines realised.

330*o*. The sums realised from fees for pilotage and from fines for non-payment thereof shall be applied, under the orders of the Commissioner in Sindh, towards the maintenance of an establishment of pilots and pilot-boats, the erection and maintenance of beacons, and generally as may best conduce to the safe passage of vessels through the mouths and tidal channels of the river Indus.—[Registry of Vessels on the Indus—Bom: Act I of 1863, s. 13.]

Account to be kept of moneys received and expended.

330*p*. An account shall be kept under the orders of the Commissioner in Sindh of all sums of money received and expended under the provisions of this Act; and a statement of the same shall be published every year in the Government Gazette.—[Registry of Vessels on the Indus—Bom: Act I of 1863, s. 14.]

Pilotage account.

330*q*. In the accounts of the Board a pilotage account shall be kept separate from the general account.—[Bombay Port Trusts Act, 1879—Bom: Act VI of 1879, s. 47.]

Pilotage-fees how credited. Moneys credited to pilotage-account how expended.

330*r*. All fees for pilotage and all fines and penalties levied under this Act from pilots or other persons employed in the pilot-service shall be credited to the pilotage-account and shall be held by the Board in trust, and be applied, in such proportions as they shall from time to time direct, to the following purposes only (namely):—

(1) the purchase and maintenance in repair of such vessels, and the supply of such materials, stores or other things as the Board deem it necessary to maintain or supply for the efficiency of the pilot-service;

(2) the payment of the salaries and allowances of pilots and other officers and servants of the Board employed in the pilot-service or in the supervision thereof;

Pilotage Accounts.

(3) the payment of pensions or retiring gratuities or compassionate allowances to pilots and other officers and servants engaged in the pilot-service, and of the contributions, if any, duly authorised to be made in their behalf to any provident fund.—[Bombay Port Trusts Act, 1879—Bom: Act VI of 1879, s. 50.]

Balance may be invested by Board in public securities.

330s. The Board may invest any balance remaining on the 31st March of each year to the credit of either the general or pilotage-account after meeting all the charges properly debitable to such account, in public securities, and may from time to time sell the said securities and re-invest the proceeds in other public securities, or credit the same to the account to which the balance invested belonged, for expenditure on any of the purposes to which the moneys credited to such account may lawfully be applied.

Amount to be so invested to be limited by Government.

Surplus how disposed of.

But the money so invested by the Board, whether in respect of the general account or of the pilotage account, shall not exceed such amount, annually or in the aggregate, as shall from time to time be prescribed by Government, and any surplus remaining after deducting the amounts which may be so invested shall be applied—

(*a*) if such surplus belongs to the general account—in liquidation, on or before the 1st August next following the 31st March on which such surplus accrued, of the principal of any loan raised by the Board under section thirty-nine, or of the capital of any debt at any time due by the Board to the Secretary of State for India in Council, or of the money due to the holders of the securities issued by the Board under section thirty; and

(*b*) if such surplus belongs to the pilotage account—in such manner as Government shall direct:

Proviso as to claims of pilots, &c., on balance of pilotage account.

Provided always that the pilots and other officers and servants employed in the pilot service shall have no claim upon any balance to the credit of the pilotage account or upon the profits or interest arising from an investment thereof, or of any portion thereof, except to such extent as payments to them or in their behalf, may from time to time be sanctioned by the Board under clauses (2) and (3) of section fifty.

Interest, &c., how credited and debited.

The interest and profits accruing and the loss, if any, arising from such investments as aforesaid shall be respectively credited and debited to the account to which the balance invested belongs.—[Bombay Port Trusts Act, 1879 Bom: Act VI of 1879, s. 51.]

Pilotage when compulsory.

Pilotage when compulsory.

Certain vessels not to be moved without having a pilot, &c., or permission of harbour-master.

330t. No vessel of the burden of two hundred tons or upwards shall be moved in any port to which this section has been specially extended without having a pilot, harbour master, or assistant of the master attendant or harbour master on board; and no vessel of any burden less than two hundred

tons and exceeding one hundred tons shall be moved in any such port without having on board a pilot, harbour master, or assistant of the master attendant or harbour master, unless authority in writing so to do has been obtained from the conservator or some officer empowered by him to give such authority.

Pilotage when compulsory.

If any vessel, except in case of urgent necessity, be moved contrary to the provisions of this section, the master of such vessel shall for every such offence be punished with fine which may extend to two hundred rupees, unless upon application to the proper officer the master be unable to procure a pilot, harbour master, or assistant harbour master to go on board the said vessel. Nothing in this section shall apply to native vessels when they are moored in the Port of Bombay. If any question as to whether any vessel is a native vessel within the meaning of this section, the decision thereon of such authority as the Governor of Bombay in Council may, from time to time, appoint in their behalf, shall be conclusive.—[Indian Ports Act, 1875—Act XII of 1875, s. 38.][1]

Pilotage Fees.

Pilotage fees.

330*u*. Within any port subject to this Act, fees may be charged for pilotage, hauling, mooring, re-mooring, hooking, measuring, and other services rendered to vessels, at such rates as the Local Government may, from time to time, direct:

Fees for pilotage, hauling, re-mooring, &c.

Provided that, in the case of fees for pilotage, the previous sanction of the Governor General in Council has been obtained.

The fees now chargeable for such services shall continue to be chargeable unless and until they are altered in exercise of the power conferred by the former part of this section.—[Indian Ports Act, 1875—Act XII of 1875, s. 61.]

Fees for vessels piloted.

330*v*. The person in charge of a vessel passing through any of the channels at the mouth of the river Indus shall pay to the officer duly authorised by the registrar of boats such fee as the Governor in Council may, from time to time, direct by notification in the Government Gazette, and in consideration of such payment shall receive the services of a pilot.—[Registry of Vessels on the Indus—Bom: Act I of 1863, s. 9.]

Fees for vessels piloted through channels.

330*w*. The person in charge of a vessel passing through any of the tidal channels aforesaid shall pay to the officer duly authorised by the registrar of boats such fee as may, from time to time, be fixed under the provisions of section 9 of this Act; and in consideration of such payment shall receive the services of pilots.—[Registry of Vessels on the Indus—Bom: Act I of 1863, s. 11.]

Penalty for non-payment of fees.

330*x*. In case the person in charge of such vessel as aforesaid shall refuse or neglect to pay the fee payable in respect of the pilotage of such vessels, such

[1] A commander of any inland steam-vessel who holds a certificate duly in force under the said rules shall be deemed to be a pilot in respect of such vessels for the purpose of section 38 of the Indian Ports Act.—[Bengal Act VII of 1879, s. 5.]

Pilotage Fees.

person shall, on conviction thereof before a magistrate, justice of the peace, or person exercising the powers of a magistrate within the province of Sindh, be liable to a fine not exceeding ten times the amount of the said fee; and such fine, if not paid, may be recovered by sale of such vessel, her furniture, ammunition, tackle and apparel.—[Registry of Vessels on the Indus—Bom: Act I of 1863, s. 12.]

Trial of Pilots.

Trial of Pilots at Fort William, and British Burma.

Trial of pilots accused of breach of duty.

330*y*. When any person employed in the pilot-service of Government at the Presidency of Fort William in Bengal, or licensed to act as a pilot at the said presidency, shall be accused of having committed any breach of duty while engaged in such service or acting under such license, and it shall appear to the Superintendent of Marine, or to the Lieutenant-Governor of Bengal, that such person ought to be brought to trial for such breach of duty, such person shall be brought to trial upon a charge or charges framed by the said Superintendent of Marine, or such other person as the said Lieutenant-Governor shall direct, before a court constituted under the provisions of this Act.—[Trial of Pilots—Act XII of 1859, s. 2.]

Power to direct investigation by special court into charges against pilots.

330*z*. (1) If the Chief Commissioner has reason to believe that there are grounds for charging any pilot licensed under this Act with incompetency or misconduct in the discharge of his duties as such pilot, or with any act or omission in breach of a rule made under section 5, and that the charge cannot be satisfactorily investigated by an ordinary court, he may direct that a special court be constituted, under this Act, at the port at which it will, in his opinion, be most convenient for the parties and witnesses to attend, and shall then send to the court a statement of the grounds of the charge, and direct the court to make an investigation into the charge.

(2) When the Chief Commissioner directs an investigation under this section, he may, if he thinks fit, appoint a person to act as prosecutor in the investigation.—[British Burma Pilots Act, 1883—Act XII of 1883, s. 6.]

Appointment of judge.

330 (*la*). The Lieutenant-Governor of Bengal shall appoint a fit person to be judge of the said court.—[Trial of Pilots—Act XII of 1859, s. 3.]

Appointment of prosecutor.

330 (*lb*). The Lieutenant-Governor shall appoint such person as he may think proper to conduct the proceedings before the court as prosecutor on the part of Government.—[Trial of Pilots—Act XII of 1859, s. 4.]

Trial to be held before judge and jury.

330 (*lc*). Every trial under this Act shall be held before the said judge and a jury composed of two merchants of Calcutta, a master of a merchant ship lying in the Port of Calcutta, and a pilot of not less than twenty years' service.—[Trial of Pilots—Act XII of 1859, s. 5.]

Constitution of court.

330 (*ld*). Every court constituted under section 6 shall consist of a president sitting with three assessors.—[British Burma Pilots Act, 1883—Act XII of 1883, s. 7.]

Trial of Pilots.

Appointment of president.

330 (*1e*). The president shall be such person as the Chief Commissioner appoints in this behalf, either generally or for any specified case.

(2) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code.—[British Burma Pilots Act, 1883—Act XII of 1883, s. 8.]

Assessors.

330 (*1f*). One of the assessors shall be a master of a sea-going vessel lying in the port at which the investigation is to be made, another shall be a merchant residing at that port, and the third shall be a person who has personally exercised the calling of a pilot for not less than five years.—[British Burma Pilots Act, 1883—Act XII of 1883, s. 9.]

Lists of merchants and pilots liable to serve on jury.

330 (*1g*). The judge shall cause to be prepared and shall keep two separate lists, one containing the names of merchants, the other containing the names of pilots, liable to serve on such jury.

The names in each list shall be arranged in alphabetical order, and the place of abode and quality or business of each person named shall be stated—[Trial of Pilots—Act XII of 1859, s. 6.]

Notice to prosecutor and accused of time and place for appointing jury.

330 (*1h*). When the judge shall be about to hold a trial under this Act, he shall give notice to the prosecutor and to the party accused of a time and place to be fixed by the judge for appointing a jury to serve at such trial.—[Trial of Pilots—Act XII of 1859, s. 7.]

Appointment of jury.

330 (*1i*). At the time and place mentioned in the notice, the judge in the presence of the prosecutor and the person accused shall read over the names which first occur in each of the said lists of those merchants and pilots who he has reason to believe are present in Calcutta and capable of attending as jurors at the trial; and shall also propose the name of a master of a merchant ship lying in the Port of Calcutta, whom he deems qualified to serve on such jury.

If no objection be made and allowed, the persons so nominated shall be the jury to serve at the trial.

If the prosecutor or the party accused shall object to any of the persons named as jurors, he shall assign the grounds of his objection, and such objection shall forthwith be decided by the judge.

If the objection be allowed, the judge shall read from the said lists or propose (as the case may be) another name in the place of the one objected to, and the person so nominated shall serve on the jury, provided no objection to such person be made and allowed as aforesaid.—[Trial of Pilots—Act XII of 1859, s. 8.]

Appointment of assessors.

330 (*1j*). The assessor who is the master of a sea-going vessel shall be appointed in each case by the Chief Commissioner, and shall be summoned by the president.

(2) The other assessors shall be summoned by the president in such manner as may be prescribed by rule, out of two lists, one of merchants, the other of pilots, to be, from time to time, prepared for the purpose and published by the Chief Commissioner in the *British Burma Gazette.* If there are no such lists, or if it is impracticable to procure the attendance of two persons, one of

Trial of Pilots.

whom is named in the list of merchants and the other in list of pilots, the other assessor or assessors, as the case may be, shall be appointed and summoned by the president.—[British Burma Pilots Act, 1883—Act XII of 1883, s. 10.]

Fees to be paid to assessors.

330 (*k*). The assessors shall receive such fees as the Chief Commissioner may, from time to time, by rule prescribe.—[British Burma Pilots Act, 1883—Act XII of 1883, s. 11.]

Day of trial to be fixed and summons to issue to jurors.

330 (*l*). When a jury has been appointed under the last preceding section, the judge shall fix a day for the trial and shall summon by writing under his hand the person so appointed to sit as a jury.[1]

Penalty for non-attendance.

If any such person when duly summoned shall, without such excuse as the judge shall allow to be sufficient, neglect or refuse to attend at the time appointed or to remain in attendance until the trial shall be completed, it shall be lawful for the said judge to impose upon any such person a fine not exceeding two hundred rupees for every such default; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the defaulter under a warrant to be issued for that purpose by the judge.

Such warrant may be transmitted by the judge to any magistrate of police for the town of Calcutta, and thereupon such magistrate shall endorse the same, and shall cause it to be executed in the same manner as if the warrant had been issued by such magistrate.—[Trial of Pilots—Act XII of 1859, s. 9.]

Trial how to proceed if any juror does not attend.

330 (*m*). If for any cause any of the persons summoned to attend as jurors shall not be in attendance at the time fixed for the commencement of the trial, the trial may, with the consent of the prosecutor and the party accused, be held before the judge and such jurors as shall be in attendance.

If such consent be not given, the place of the absent juror shall be supplied by some other person selected by the judge from the same profession or calling as the person originally summoned, and who shall consent to serve, provided no objection to such person be made and allowed in manner aforesaid.

If the parties or either of them do not consent that the trial shall be held before the judge and such jurors as may be in attendance, and the place of the absent juror cannot be supplied by a person consenting to serve, the trial shall be postponed to another day, and the judge shall either re-summon the same jury or appoint and summon another jury in the manner hereinbefore provided.—[Trial of Pilots—Act XII of 1859, s. 10.]

Register of jurors who have served.

330 (*n*). The judge shall register in a book the names of all jurors mentioned in either of the said two lists who have attended and served on a trial held under this Act.

A juror who has served shall not be required again to serve, and his name shall be excluded in reading over the jury-lists until all the persons named in the said lists who are present in Calcutta and capable of attending as jurors shall have served.—[Trial of Pilots—Act XII of 1859 11.]

[1] The jurors are to be sworn or affirmed by the judge of the court to give a true verdict according to the evidence. [S. 12, Act XII of 1859].

Trial of Pilots.

Judge may summon witnesses to attend at certain time and place.

Examination of witnesses about to leave Calcutta.

330 (*Ip*). It shall be lawful for the judge of the said court, at the instance of the prosecutor, or of the party accused, or of his own motion, by writing under his hand, to summon any person to attend as a witness at a time and place to be specified in the summons, for the purpose of being examined at any trial before the said court: or if such person shall be about to depart from Calcutta, so as to be unable to attend at such trial without serious inconvenience, then to be examined before the judge of the said court before the day fixed for the trial; provided always that due notice of the time and place of such examination shall be given to the accused party; provided also that such witness may nevertheless be examined at the trial if he shall be able to attend thereat, in which case his previous examination may also be read at the trial.—[Trial of Pilots—Act XII of 1859, s. 13.]

Copy of grounds of charge to be supplied to pilot.

330 (*Iq*). Before any investigation under this Act is commenced, the special court shall supply the pilot with a copy of the statement sent, under section 6, to the court.—[British Burma Pilots Act, 1883—Act XII of 1883, s. 12.]

Person charged to be heard.

330 (*Ir*). For the purpose of an investigation under this Act, the special court may summon the pilot to appear before it, and shall give him full opportunity of making a defence, either in person or otherwise.—[British Burma Pilots Act, 1883—Act XII of 1883, s. 13.]

Powers of the court as to evidence and regulating proceedings.

330 (*Is*). For the purpose of an investigation under this Act, the special court shall, so far as relates to compelling the attendance, and to the examination, of witnesses, the production of documents, and the regulation of the proceedings, have the same powers as are exercisable by the principal court of original criminal jurisdiction for the place at which the investigation is made.—[British Burma Pilots Act, 1883—Act XII of 1883, s. 14.]

Penalty for witnesses not attending or refusing to give evidence.

330 (*It*). If any person who shall have been duly summoned to attend as a witness[1] shall, without sufficient excuse, neglect or refuse to attend, or attending shall refuse to give evidence or to answer any question which may be lawfully put to him, such person shall forfeit and pay such fine, not exceeding five hundred rupees, as the judge of the said court shall order; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the person ordered to pay the same in the manner prescribed in section 9 of this Act.—[Trial of Pilots—Act XII of 1859, s. 14.]

Verdict of jurors.

330 (*Iv*). Upon the completion of the trial, the jurors shall give their verdict upon the charge, or, if there be more than one, upon each separate charge.

[1] (1) Whenever the judge of the said court thinks it necessary for obtaining evidence that any person should be arrested, he may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorise any officer (subject nevertheless to any general or special instruction from the Local Government) to enter any vessel.

(2) Any officer so authorised may, for the purposes of enforcing the entry, call to his aid any officer of police or customs or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code, section 186.

(3.) No person shall be detained under this section for more than forty-eight hours.—[Trial of Pilots—Act XII of 1859.] See Act VI of 1883.

Trial of Pilots.

The verdict shall be according to the opinion of the majority of jurors. If the jurors are equally divided, the judge shall declare his opinion, and the verdict shall be according to the opinion of the judge and the jurors with whom he concurs.—[Trial of Pilots—Act XII of 1859, s. 16.]

Court to report Chief Commissioner.

330 (*iii*). On the completion of the investigation, the special court shall send to the Chief Commissioner a full report of the conclusions at which it has arrived. The report shall be in accordance with the opinion of the majority of the members of the court, or, if the court is equally divided, in accordance with the opinion of the president and with the member with whom he concurs. In the latter case, any member who does not concur in the report may separately record his opinion.—[British Burma Pilots Act, 1883—Act XII of 1883, s. 15.]

Sentence if accused found guilty.

330 (*iv*). If by such verdict the accused person is found guilty of the charge or of any one or more of the charges preferred against him, the judge of the court shall sentence him to be dismissed from the said pilot-service, or to have his license withdrawn, or shall award such other punishment, by loss of rank or pay, or by change of a license from a higher to a lower grade, or suspension from employment for a specified period, as to the judge shall appear fit.

Preparation of schedule of offences and punishments, sanctioned.

The Lieutenant-Governor of Bengal, with the sanction of the Governor General in Council, may prepare a schedule of offences and punishments (such punishments being of the same nature as those hereinbefore mentioned) for the guidance of the said court; and if such schedule be prepared and sanctioned, and the charge proved before the said court is an offence specified in such schedule, the judge of the said court shall award such punishment as is prescribed for such offence in the said schedule, and no other.[1]

If by such verdict as aforesaid the accused person is found not guilty of the charge or charges preferred against him, the judge shall declare him acquitted of the same.—[Trial of Pilots—Act XII of 1859, s. 17.]

[1] SCHEDULE OF OFFENCES AND PUNISHMENTS PREPARED IN ACCORDANCE WITH SECTION 17, ACT XII OF 1859.

[2] *Offences through Unskilfulness, Neglect, &c., when in Pilotage-charge.*

1. Any pilot who, when in pilotage-charge of any vessels, shall, through unskilfulness, negligence, or other default, allow such vessel to ground, or cause injury, by collision or otherwise, to the vessel in his charge or to any other vessel, shall be punished by suspension or reduction of pay for a term not exceeding twelve months, or by a reduction either in steps or grade.

2. If in any case the loss of any vessel is the consequence of any of the offences above described, the pilot shall also be liable to dismissal.

3. Any pilot, who shall unnecessarily cut or slip, or cause to be cut or slipped, any cable belonging to any vessel under his pilotage charge, shall be punished by suspension or reduction of pay for a term which may extend to three months.

4. Any pilot who shall either through unskilfulness, neglect, or other default cause damage to any floating light-vessel, buoy, or beacon, shall be punished by suspension or reduction of pay for a term which may extend to three months, and shall also be liable to make good the damage caused.

5. Any pilot who shall be asleep when in pilotage charge of any vessel under weigh, or who shall fail to attend, whether by day or by night, to the swinging of the vessel of which he may be in pilotage charge, shall be punished with suspension or reduction of pay for a term not exceeding six months.

330 *bis*). The Chief Commissioner may cancel or suspend, or reduce the grade of, any license granted to a pilot under this Act in the following cases, that is to say :—

Trial of Pilot

Power to cancel, suspend, or reduce license for misconduct, &c.

(*a*) if the pilot is found guilty by a criminal court of any offence punishable under section 5, or of any other offence the commission of which, in the opinion of the Chief Commissioner, shows him to be unfit to discharge the duties of a pilot; or

(*b*) if, on considering a report submitted under section 15 of this Act, or transmitted under section 17 of the Indian Merchant Shipping Act, 1883, the Chief Commissioner is of opinion that the pilot is

6. Any pilot who shall be drunk when in pilotage charge of any vessel, shall be punished by dismissal.

Offences against Discipline on Departmental Rules.

7. Any pilot who shall refuse to take pilotage-charge of a vessel when ordered to do so by competent authority, or who shall improperly throw up pilotage-charge of any vessel, or who shall quit the vessel of which he is in pilotage-charge without the consent of the master or commanding officer, before the service for which he was engaged has been performed, shall be punished with suspension or reduction of pay for a period which may extend to twelve months, or by dismissal.

8. Any pilot who shall be drunk on board a pilot vessel, or when on general duty otherwise than in pilotage-charge, shall be punished with suspension or reduction of pay for a term which may extend to twelve months; and for any repetition of the offence shall be liable to dismissal.

9. Any pilot who shall be guilty of disobedience of orders shall be punished with suspension or reduction of pay for a term which may extend to twelve months, or by reduction in steps or grade, or by dismissal.

10. Any pilot who shall be found guilty of insubordination or disrespect to a superior officer shall be punished with suspension or reduction of pay for a term which may extend to six months.

11. Any pilot who shall assault his superior officer when on duty may be punished, in addition to any penalty to which he may be liable under the Penal Code, by dismissal, or by suspension or reduction of pay for a term not exceeding twelve months, or by reduction of grade.

12. Any pilot who shall, when in command of a pilot-vessel, neglect to attend to the proper maintenance, discipline, or navigation of such vessel, or any pilot who shall wilfully waste, destroy, or misapply public stores and property, shall be punished with suspension or reduction of pay for a term which may extend to twelve months, or by dismissal.

13. Any pilot who shall be guilty of any breach of rules duly promulgated by proper authority for his guidance as a pilot, and the punishment for which is not already laid down in this schedule, shall be punished with suspension or reduction of pay for a term not exceeding twelve months, or by reduction in steps or grade, or by dismissal.

Offences containing an Element of moral Turpitude.

14. Any pilot who shall wilfully make a false report of the circumstances attending the grounding, collision, injury, or loss of any vessel, or of the stores of any vessel, or on any point connected with his duty as a pilot, or who shall make or cause to be made a false muster-roll, or a false entry in the log-book of any pilot-vessel, or who shall wilfully neglect to make the proper entries in the log-book of such vessel when he is in duty bound to make them, shall be punished with suspension for a term not exceeding twelve months, or by dismissal.

15. Any pilot who shall commit, or connive at, any fraud, or offence against the laws relating to Customs or Excise, or who shall knowingly connive at the escape of any person against whom there has issued a warrant of arrest, shall be punished with suspension for a term not exceeding twelve months, or by dismissal.

N. B.—Reduction of pay is never to exceed one-half of the monthly salary or earnings.

In calculating the pay of licensed or free list pilots, the average earnings for the last three months to be taken, and one-half of the earnings of every month to be impounded till the total sum has been made good.

Trial of Pilots.

incompetent, or has been guilty of any misconduct in the discharge of his duty as pilot, or of any breach of a rule made under section 5 of this Act.—[British Burma Pilots Act, 1883—Act XII of 1883, s. 17.]

Power to suspend license pending trial or investigation.

330 (*1x*). When a prosecution has been instituted against a pilot under section 5, or an investigation has been ordered in respect of him under section 6, or an investigation affecting his conduct has been ordered under chapter II of the Indian Merchant Shipping Act, 1883, the Chief Commissioner may suspend his license until the trial is concluded or the report of the investigation is submitted or transmitted to the Chief Commissioner, as the case may be.—[British Burma Pilots Act, 1883—Act XII of 1883, s. 18.]

No sentence final till approved by Government.

330 (*1y*). The proceedings of the court shall be sent by the judge to the Superintendent of Marine for submission to the Lieutenant-Governor of Bengal; and no sentence of punishment pronounced by the judge of the said court shall be final until it has been approved of by the said Lieutenant-Governor.

Government may remit sentence or mitigate punishment.

The said Lieutenant-Governor may remit the whole or any part of such sentence, or may direct the substitution of any mitigated punishment in lieu of the punishment awarded by the said court, as he shall think fit.—[Trial of Pilots—Act XII of 1859, s. 18.]

If verdict of jurors be manifestly contrary to evidence, or trial otherwise insufficient, judge to certify fact to Lieutenant-Governor.

330 (*1z*). If it shall appear to the judge of the said court that the verdict of the jurors is manifestly contrary to the evidence, or that the trial is otherwise insufficient, the judge, instead of passing sentence on the accused person or declaring him acquitted, as the case may be, may certify the same to the Lieutenant-Governor of Bengal; and the said Lieutenant-Governor may either order a new trial before another jury or acquit the accused person, as he shall think fit.—[Trial of Pilots—Act XII of 1859, s. 19.]

Power to make rules.

330 (*2a*). It shall be lawful for the Lieutenant-Governor of Bengal to make such rules as he shall think proper, not inconsistent with the provisions of this Act, for conducting the proceedings and regulating the practice of the said court.[1]—[Trial of Pilots—Act XII of 1859, s. 20.]

[1] *Rules for the Court for the Trial of Pilots under Act XII of 1859.*

Rule 1.—Whenever it shall appear to the Lieutenant-Governor or the Superintendent of Marine that any person employed in the pilot-service of Government or any licensed pilot ought to be brought to trial under the provisions of the above-mentioned Act, the Superintendent of Marine shall frame the charge or charges upon which such pilot is to be tried, and transmit a copy of the same to the judge of the court, who shall thereupon issue a notice, of not less than one day's duration in the form No. 1 appended, calling upon the prosecutor on behalf of Government under the said Act and the party accused to attend on him at a place and time appointed, for the purpose of appointing a jury under the 7th and 8th sections of the said Act.

Rule 2.—At the time and place appointed in the said notice, the judge shall deliver to the prosecutor a copy of the charge or charges, and the accused shall be entitled to receive a copy thereof from the prosecutor on application.

Rule 3.—The jury having been appointed under the provisions of section 8 of the Act, the judge shall by a summons under his hand in Form No. 2 summon them to appear at a time and place to be fixed by him for the trial, and shall by a summons in the Form No. 3 summon the accused to attend such trial; the time for such trial not being earlier than two days after the service of such summons. The summonses respectively shall be served either personally or by leaving the same at the place of business or of last known abode of the parties respectively.

330 (2). (1) The Chief Commissioner may, from time to time, make rules to carry into effect the provisions of this Act with respect to the special court, and in particular with respect to— *Trial of Pilots.* Power of Chief Commissioner to make rules.

(*a*) the mode in which the president shall, under section 10, summon the assessors;

(*b*) the amount of the fees to be paid to the assessors; and

(*c*) the procedure of the court.

(2) All such rules shall be published in the *British Burma Gazette*, and shall thereupon have the force of law.—[British Burma Pilots Act, 1883—Act XII of 1883, s. 16.]

Rule 4.—The course of proceedings at the trial shall be as follows or as near thereto as conveniently may be.

The jury shall be sworn in like manner as in the ordinary courts of law.

The charge or charges shall then be read by the prosecutor. The defendant shall not be required to plead to such charge or charges, but the evidence shall be taken on the subject thereof, as though he had pleaded not guilty. The prosecutor shall then call the witnesses for the prosecution, who may be cross-examined by the accused, and re-examined and examined by the judge and jury, according to the course and practice of the Supreme Court. The case for the prosecution having been closed, the accused shall be called upon for his defence. If not ready, the judge may at his discretion grant the accused an extension of time or postponement, as the case may be. The accused in his defence may call witnesses on his part and address the court either orally or in writing, and either before or after the examination of his witnesses. The prosecutor shall be entitled to cross-examine every witness for the defence, and the accused to re-examine such witness. At the close of the case for the accused, the prosecutor may address the court in reply, if witnesses shall have been called by the accused in support of his statement; but not otherwise, unless by special permission of the judge. The jury shall forthwith at the close of the case consider and deliver their verdict. Subject to section 19 of the said Act, the judge may either pass sentence immediately or reserve his sentence, which sentence he may afterwards pass subsequently to the discharge of the jury.

Rule 5.—The forms for swearing the jury and the witnesses shall be as near those in use in the Supreme Court as may be.

Rule 6.—The judge shall be at liberty to adjourn the court for any specified object to such times and places, and from time to time, as he shall think necessary or expedient; and shall notify every such adjournment verbally to the jury, the prosecutor and the accused and any witnesses who shall be at such time in attendance, all of which several persons shall thereupon attend at every such adjourned time and place as though they had been specially summoned thereto.

Rule 7.—The summons to witnesses shall be in the Form No. 4 or as near thereto as may be, and the same shall be served personally in all cases if practicable, and if not, shall be left at the place of business or abode of the party to whom it shall be addressed, or on board the ship to which he belongs with any person on duty on board; and the judge shall, on the application of either the prosecutor or the accused before the trial (or during the same if he shall see fit), sign and issue summonses for such witnesses as they may respectively require, which summonses shall be served in the manner above required by the prosecutor or the accused as the case may be.

Rule 8.—In case it shall be made to appear to the judge on an application by either the prosecutor or the accused that any material and necessary witness on any charge is about to leave the port of Calcutta, he shall issue to the parties so applying to him a summons for the attendance of such witness at some place and at the earliest reasonable time to be fixed in the summons, and the judge shall thereupon immediately issue and send to the address of the other of such parties a notice in the Form No. 5 inviting his attendance at any such time and place on the occasion of the examination of any such witness to cross-examine him. In case of the non-attendance of such party after such notice, the judge shall, on its being made to appear satisfactorily to him that such notice has reached the place of business or abode of such party, proceed with such examination without his attendance.

Trial of Pilots.

Marine authorities or Government may pass orders upon charge of breach of duty where trial unnecessary.

330 (*2c*). Nothing contained in this Act shall be held to restrict the marine authorities or the Government from passing such orders as may be deemed proper upon any charge of breach of duty preferred against any person employed in the said pilot service, when it shall not be deemed necessary that such person should be brought to trial for such breach of duty under the provisions of this Act.—[Trial of Pilots—Act XII of 1859, s. 21.]

Withdrawal of license from delinquent pilot.

330 (*2d*). If any person licensed to act as a pilot when duly charged with breach of duty as aforesaid shall refuse to submit himself to trial under the provisions of this Act, the license of such person shall be withdrawn, and he shall be incapable of being again licensed to act as a pilot at the said presidency.—[Trial of Pilots—Act XII of 1859, s. 22.]

Act applicable to persons in pilot service and to licensed pilots.

330 (*2e*). The provisions of this Act shall extend to all persons employed in the pilot service at the said presidency and borne on the rolls of the Government establishment, whether such persons receive fixed salaries, or are remunerated by a portion of the pilotage charged on the vessels piloted by them, or in any other manner, and to all persons licensed to act as pilots at the said presidency.—[Trial of Pilots—Act XII of 1859, s. 23.]

Delegation of Functions of Chief Commissioner.

Power to delegate functions of Chief Commissioner.

330 (*2f*). The Chief Commissioner may, from time to time, by notification in the *British Burma Gazette*, delegate his functions under section 6, section 8,

Rule 9.—The accused shall be allowed the assistance of a friend or professional adviser in the conduct of his defence, and such friend or professional adviser may, with the consent of the judge, address the court on the trial in lieu of the accused, provided the latter be present. But the judge shall not recognise any written application relative to the trial or other proceedings except directly from the accused himself, and in no trial or other proceedings in which the accused himself is absent shall the agency of such friend or professional adviser be admitted or recognised unless in the case of illness of the accused supported by medical certificate, when on a written request by him to the judge authorising the appearance of any person on his behalf, the proceedings may be carried on in the presence of such person as though the accused were himself present.

Rule 10.—In cases of collision, where the pilots of both colliding vessels are brought to trial, there shall be one trial for both or a separate trial for each, according as the judge in his discretion may determine.

Rule 11.—In case the accused shall not appear at the trial, and shall not satisfy the judge that he has a reasonable cause for not appearing, the court shall be at liberty to proceed in his absence to hear and determine the charge preferred against him; and the judge may pass sentence thereon in such and the same manner as he might have done in case the accused had appeared and been arraigned in person on the said charge: Provided that in case the accused shall present himself before the conclusion of the trial, he shall be at liberty to cross-examine such witnesses as still remain to be examined on the part of the prosecution, and to make his defence to the charge or charges preferred against him in the usual manner, but shall not be at liberty, except by leave of the judge, to reopen any of the proceedings which shall have taken place in his absence.

Rule 12.—Any application on behalf of a person summoned on a jury or as a witness or a defendant on any trial, and seeking to be excused attendance on the ground of illness must be supported by a medical certificate addressed to the judge of the court at the earliest opportunity.

Rule 13.—The jury or the judge shall be at liberty to have recorded on the proceedings such remarks connected therewith as they may think fit to be brought to the notice of the authorities.

Rule 14.—Questions of law or procedure not herein specially provided for shall be determined so far as is practicable and reasonable in accordance with the rules of the supreme court in regard to similar or analogous matters.

section 10, sub-section (1), or section 18 to such person as he thinks fit. —[British Burma Pilots Act, 1883—Act XII of 1883, s. 19.]

Trial of Pilots.

No Pilot to take charge without production of Port Clearance.

Pilots not to take charge without Port Clearance.

No vessel to depart without port clearance. No pilot to take charge of vessel proceeding to sea without production of port clearance.

330 (*2g*). No vessel, whether laden or in ballast, shall depart from any Customs port until a port clearance has been granted by the Customs collector or other officer duly authorised to grant the same. And no pilot shall take charge of any vessel proceeding to sea unless the master of such vessel produces a port clearance.—[The Sea Customs Act, 1878—Act VIII of 1878, s. 62.]

Offences and punishments under Sea Customs Act.

330 (*2h*). The offences mentioned in the first column of the following schedule shall be punishable to the extent mentioned in the third column of the same with reference to such offences respectively:—

Offences.	Section of the Act to which offence has reference.	Penalties.
21.—If any master of a vessel attempts to depart without a port clearance,	62 (330 (*2g*)	such master shall be liable to a penalty not exceeding five hundred rupees.
22.—If any vessel actually departs without a port clearance,	62 "	the master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
23.—If any pilot takes charge of any vessel proceeding to sea notwithstanding that the master of such vessel does not produce a port clearance,	62 "	such pilot, on conviction before a magistrate, shall be liable to fine not exceeding one thousand rupees.

[The Sea Customs Act, 1878—Act VIII of 1878, s. 167.]

As to a master who is a licensed pilot taking out a ship without a certificate of survey, see ss. 318b, 318d, and 318g.

Pilot to receive Manifest from Master.

Pilot to receive Manifest.

Power to fix places beyond which inward bound vessels are not to proceed until manifest delivered.

330 (*2i*). The Local Government may, by notification in the local official Gazette, fix a place in any river or port, beyond which no vessel arriving shall pass until a manifest has been delivered to the pilot, officer of Customs, or other person duly authorised to receive the same.

Delivery of manifest when vessel anchors below place so fixed.

If, in any river or port wherein a place has been fixed by the Local Government under this section, the master of any vessel arriving remains outside or below the place so fixed, such master shall, nevertheless, within twenty-four hours after the vessel anchors, deliver a manifest to the pilot, officer of Customs, or other person authorised to receive the same.—[See Customs Act, 1878—Act VIII of 1878, s. 53.]

Delivery of manifest where no

330 (*2j*). If any vessel arrives at any Customs port in which a place has not been so fixed, the master of such vessel shall, within twenty-four hours

Pilot to receive Manifest.

Penalty has been repealed.

after such vessel has anchored within the limits of the port, deliver a manifest to the pilot, officer of Customs, or other person authorised to receive the same.—[Sea Customs Act, 1873—Act VIII of 1878, s. 54.]

PART VI.

LIGHTHOUSES.

Management of Lighthouses.

Management of Lighthouses.

Management of lighthouses, buoys, and beacons to be in Trinity House, Commissioners of Northern Lighthouses, and Port of Dublin Corporation.

389. Subject to the provisions hereinafter contained, and subject also to any powers or rights now lawfully enjoyed or exercised by any person or body of persons having by law or usage authority over local lighthouses, buoys, or beacons, hereinafter termed "local authorities," the superintendence and management of all lighthouses, buoys, and beacons shall be vested in the following bodies (that is to say)—

In England and Wales, and the Islands of Jersey, Guernsey, Sark, and Alderney, and the adjacent seas and islands, and in Heligoland and Gibraltar—in the Trinity House:

In Scotland and the adjacent seas and islands, and in the Isle of Man—in the Commissioners of Northern Lighthouses hereinafter mentioned:

In Ireland and the adjacent seas and islands—in the Port of Dublin Corporation:

And, subject to the provisions hereinafter contained, the said Trinity House, Commissioners, and Corporation (hereinafter termed general lighthouse authorities) shall respectively continue to hold and maintain all property now vested in them in that behalf in the same manner and for the same purposes as they have hitherto held and maintained the same.

Incorporation of Commissioners of Northern Lighthouses.

390. The persons holding the following offices shall be a body corporate, under the name of the Commissioners of Northern Lighthouses (that is to say)—

(1) The Lord Advocate and the Solicitor-General for Scotland;

(2) The Lords Provosts of Edinburgh and Glasgow, and the provosts of the cities of Aberdeen, Inverness, and Campbeltown;

(3) The eldest bailies of Edinburgh and Glasgow;

(4) The sheriffs of the counties of Edinburgh, Lanark, Renfrew, Bute, Argyle, Inverness, Ross, Orkney, Caithness, Aberdeen, Ayr, Fife, Forfar, Wigton, Sutherland, Kincardine, Kirkcudbright, and Elgin;

And shall have a common seal; and any five of such commissioners shall constitute a quorum, and shall have power to do all such matters and things as might be done by the whole body of commissioners.

Power to elect certain new members.

391. In addition to the persons above mentioned, it shall be lawful for the said commissioners at any time after this Act comes into operation to elect

the provost or chief magistrate of any royal or parliamentary burgh on or near any part of the coasts of Scotland, and the sheriff of any county abutting on such coasts.

Management of Lighthouses.

392. The Trinity House, their engineers, workmen, and servants, may at all times enter any lighthouses within the jurisdiction of the said commissioners or corporation, to view the condition thereof, or otherwise for the purposes of this Act.

Trinity House may inspect lighthouses in Scotland and Ireland.

393. The Board of Trade may, upon complaint to the effect that any lighthouse, buoy, or beacon under the management of any of the said general lighthouse authorities, or any work connected therewith, is inefficient or improperly managed or unnecessary, authorise persons to inspect the same; and every person so authorised may inspect the same accordingly, and make such inquiries in respect thereof, and of the management thereof, as he may think fit; and all officers and others having the care of such lighthouses, buoys, or beacons, or concerned in the management thereof, shall furnish all such information and explanations in relation thereto as he may require; and the said general lighthouse authorities, and their respective officers, shall at all times give to the Board of Trade all such returns, explanations, or information in relation to the lighthouses, buoys, or beacons within their jurisdiction, and the management thereof, as such Board may from time to time require.

Board of Trade may appoint persons to inspect lighthouses, &c.

394. Each of the said general lighthouse authorities, upon giving due notice of their intention, shall have power, with the sanction of the Board of Trade, to compel any local authority having jurisdiction in the matter of lighthouses, buoys, or beacons at any place situate within the jurisdiction of such general lighthouse authority to lay down buoys, or to remove or discontinue any existing lighthouse or beacon, or to make any variation in the character of any lighthouse, or in the mode of exhibiting lights therein; and no such local authority as aforesaid shall erect any new lighthouse, or remove or discontinue any lighthouse, or vary the character of any lighthouse, or the mode of exhibiting lights therein, without the sanction of the general lighthouse authority within whose jurisdiction the same is situate.

Power to general lighthouse authorities to control local authorities.

394*a*. The following rules shall be observed with respect to the inspection of local lighthouses, buoys, and beacons (that is to say)—

Lights, &c., under local authorities to be inspected, &c., by general lighthouse authorities.

(1) It shall be the duty of each of the general lighthouse authorities, or of such persons as may be authorised by such authority for the purpose, to inspect all lights, buoys, and beacons situate within the limits of the jurisdiction of such general authority, but belonging to or under the jurisdiction of any local authorities, and to make such inquiries in respect thereof and of the management thereof as they may think fit.

(2) All officers and others having the care of such lighthouses, buoys, or beacons, or concerned in the management thereof, shall furnish all such information and explanations concerning the same as they may require:

Management of Lighthouses.

(3) All such local authorities and their respective officers shall at all times give to the inspecting authority all such returns, explanations, or information concerning the lighthouses, buoys, and beacons within their jurisdiction, and the management thereof, as the said authority may from time to time require:

(4) The inspecting authority shall communicate to each local authority the results of its inspection of the lighthouses, buoys, and beacons within its jurisdiction, and shall also make general reports of the results of its inspection of local lighthouses, buoys, and beacons to the Board of Trade; and such reports shall be laid before Parliament:

(5) The powers given by the 394th section of the principal Act to the general lighthouse authorities shall, so far as the same are applicable, extend and apply to the case of local buoys and beacons, other than local buoys and beacons placed or erected for temporary purposes, as well as to the case of local lighthouses.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 43.]

In case of default by local bodies, local lighthouses may be transferred to general lighthouse authorities.

395. If any local authority having power to erect, maintain, or place any local lighthouse, buoy, or beacon at any place within the jurisdiction of one of the said general lighthouse authorities fails so to do, or fails to obey any direction given by such authority under the last preceding section, Her Majesty may, upon application from such general lighthouse authority, by Order in Council direct that such power as aforesaid shall be transferred to such last-mentioned authority; and such power, together with all powers of levying and receiving dues in respect of such lighthouse, buoy, or beacon, shall thereupon become vested in such last-mentioned authority; and such lighthouse, with its appurtenances, and also such buoy or beacon, and all dues leviable in respect thereof, shall thenceforth be subject in all respects to the same regulations as other lighthouses and light dues, buoys, and beacons provided for by this Act.

Light Dues.

Light Dues.

Dues to be levied.

396. Subject to any alterations to be made under the powers hereinafter contained, the said general lighthouse authorities shall in respect of the existing lighthouses, buoys, or beacons within their respective jurisdictions continue to levy dues, hereinafter called light dues, after the rate at which the same are levied at the time when this Act comes into operation; and such light dues shall be payable in respect of all ships whatever, except ships belonging to Her Majesty, and ships hereby exempted from payment thereof.

Dues may be fixed by Order in Council to be paid to local authorities.

396*a*. If any lighthouse, buoy, or beacon is erected or placed, or reconstructed, repaired, or replaced by any local authority, having jurisdiction in the matter of lighthouses, buoys, or beacons, Her Majesty may, on the application of the said local authority, by Order in Council fix such dues to be paid

to the said local authority in respect of every ship which enters the port or harbour under the jurisdiction of such local authority or the estuary wherein such lighthouse, buoy, or beacon is situate, and which passes the said lighthouse, buoy, or beacon, and derives benefit therefrom, as Her Majesty may deem reasonable:

Light Dues.

The dues for the time being fixed by any such Order in Council as aforesaid shall be paid accordingly by the master of the said ship, or other person or persons by whom the said light dues, if levied by one of the general lighthouse authorities, would be payable, and shall be recoverable in the same manner as light dues payable to such general authorities are recoverable.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 46.]

Light dues to be subject to revision by Her Majesty in Council.

397. Her Majesty may, by and with the advice of her Privy Council, from time to time reduce all or any of the dues for the time being payable in respect of existing or future lighthouses, buoys, or beacons for the time being under the management of the said general lighthouse authorities; and may also, by and with the like advice, from time to time increase or vary any of such dues, so that no dues payable in respect of any lighthouse, buoy, or beacon existing at the time when this Act comes into operation are made to exceed the amount which has at any period previous to such time been received in respect thereof, or to which the said dues might during any part of such period as last aforesaid lawfully have been raised.

Powers of general lighthouse authorities to alter and regulate dues.

398. Each of the said general lighthouse authorities shall have power, with the consent of Her Majesty in Council, to do any of the following things (that is to say)—

To exempt any ships or any classes of ships from the payment of light dues receivable by such authority, and to annex any terms or conditions to such exemptions:

To alter the times, places, and modes at and in which the light dues receivable by such authority are payable:

To substitute any other dues, or class of dues, whether by way of annual payment or otherwise, in respect of any ships or classes of ships, for the dues payable to such authority for the time being.

Power to vary rates of duties.

398*a*. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, reduce or raise the rate of coast light dues in respect of all vessels or any particular class of vessels:

Provided that such rate shall not in any case exceed the rate fixed by section four.[1]—(Burma Coast-lights Act, 1879[2]—Act IX of 1879, s. 6.]

Proviso.

399. Tables of all light dues, and a copy of the regulations for the time being in force in respect thereof, shall be posted up at all Custom-houses

Publication of dues and regulations.

[1] See s. 399 c.

[2] This Act does not apply to any vessel in the service of Her Majesty or the Government of India, or to any vessel of war belonging to any Foreign Prince or State.

It extends to the territories respectively administered by the Governors of Fort St. George and Bombay in Council, the Lieutenant-Governor of Bengal, and the Chief Commissioners of British Burma and the Andaman and Nicobar Islands.—[Act IX of 1879, s. 1.]

Light dues.

within the United Kingdom; and each of the said general lighthouse authorities shall from time to time as occasion requires furnish copies of such tables and regulations to the Commissioners of Customs in London, and to the principal officers of Customs resident at all places where light dues are collected on account of such lighthouse authority; and such copies shall be posted up by the Commissioners at the Custom-house in London, and by such officers at the Custom-houses of the places at which they are respectively resident.

Liability for Light dues.

Liability for Light dues.

Liability for and recovery of light dues.

399*a*. The following persons shall be liable to pay light dues for any ship in respect of which light dues are payable: (that is to say) the owner or master, or such consignees or agents thereof as have paid or made themselves liable to pay any other charge on account of such ship in the port of her arrival or discharge; and in default of payment such light dues may be recovered in the same manner as penalties of the like amount may be recovered by virtue of the principal Act.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 44.]

Powers to consignees, etc., to retain light dues paid by them.

399*b*. Every consignee and agent (not being the owner or master) hereby made liable for the payment of light dues in respect of any ship may, out of any monies in his hands received on account of such ship, or belonging to the owner thereof, retain the amount of all dues so paid by him, together with any reasonable expenses he may have incurred by reason of such payment or liability.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 45.]

Coast-light dues payable in respect of vessels of fifty tons.

399*c*. For the purpose of establishing and maintaining coast-lights in the eastern part of the Bay of Bengal, a toll, hereinafter called "coast-light dues," shall be paid in respect of every vessel of the burden of fifty tons and upwards making any voyage mentioned in the schedule hereto annexed, at the rate of one anna and six pie per ton of burden:

Provided that such vessel sails from or enters during the course of, or at the termination of, any such voyage a port in British India, or takes in, or discharges, cargo off the coast of British India.

SCHEDULE.

1. A voyage to or from Chittagong or any place west of the longitude of Chittagong—
   (*a*) From or to any port in British Burma; or
   (*b*) From or to any port in the Andaman and Nicobar Islands or any place east of the longitude of Mergui, by a course passing between the northern extremity of the Andaman Islands and the coast of British Burma.

2. A voyage to or from any port in British Burma—from or to any other port in British Burma,

except voyages to or from Maulmain, from or to Tavoy or Mergui, or to or from Tavoy, from or to Mergui.

3. A voyage to or from Rangoon and any port in British Burma west of the longitude of Rangoon—from or to any place east of the longitude of Mergui.

4. A voyage to or from any part in British Burma other than Tavoy and Mergui—from or to any port in the Andaman and Nicobar Islands.

[Burma Coast-lights Act, 1879—Act IX of 1879, s. 4.]

Liability for Light dues.

399*d*. The said coast-light dues shall become due and payable—

Dues when payable.

(*a*) in the case of a vessel clearing out of a port in British India upon any such voyage—previous to the grant of any port-clearance;

(*b*) in the case of a vessel entering a port in British India in the course, or at the termination, of any such voyage—immediately upon her entering such port:

Provided that the said dues shall not be levied more than once on any vessel in the course of the same voyage—[Burma Coast-lights Act, 1879—Act IX of 1879, s. 5.]

Master to report arrival.

399*e*. Within twenty-four hours after the arrival within a port of any vessel chargeable with coast-light dues, the master of such vessel shall give notice of such arrival to the Customs collector.—[Burma Coast-lights Act, 1879—Act IX of 1879, s. 8.]

Tonnage of vessel chargeable with coast-light dues how ascertained: If registered.

399*f*. In order to ascertain the tonnage of any vessel chargeable with coast-light dues, the following rules shall be observed:—

(*a*) If such vessel be a British registered vessel or a vessel registered under Act No. X of 1841 or Act No. XI of 1850, or under any other law for the time being in force for the registration of vessels in India, the Customs collector may require the owner or master of such vessel, or any other person having possession of her register, to produce such register for inspection. If any such owner, master, or other person neglects or refuses to produce such register, or otherwise to satisfy the Customs collector as to what is the true tonnage of the vessel in respect of which such coast-light dues are payable, he shall be punished with fine which may extend to one hundred rupees, and the Customs collector may cause such vessel to be measured and the tonnage thereof to be ascertained; and in such case the owner or master of such vessel shall also be liable to pay the expenses of such measurement.

If not registered.

(*b*) If such vessel be not a British registered vessel or a vessel registered under Act No. X of 1841 or Act No. XI of 1850, or under any other law for the time being in force for the registration of vessels in India, and the owner or master thereof fails to satisfy the Customs collector as to what is her true tonnage according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels, the Customs collector shall cause such vessel to be measured and the tonnage thereof, according to the mode aforesaid, to be ascertained; and in such case the owner or master of such vessel shall be liable to pay the expenses of such measurement—[Burma Coast-lights Act, 1879—Act IX of 1879, s. 9.]

Receipt for Light Dues.

Ship not to be cleared without production of receipt for light dues.

Receipt for Light Dues on clearance granted.

400. A receipt for light dues shall be given by the person appointed to collect the same to every person paying the same; and no officer of Customs at any port where light dues are payable in respect of any ship shall grant a clearance or transire for any such ship unless the receipt for the same is produced to him.

No port clearance to be granted until dues, &c., are paid.

400*a*. The officer of Government whose duty it is to grant a port clearance for any vessel shall not grant such port clearance until her master or some other person has paid, or secured to the satisfaction of such officer, the amount of all dues, expenses, and costs with which such vessel is chargeable under this Act, and of any fine to which any person is liable for anything done by him in contravention of this Act—[Burma Coast-lights Act, 1879—Act IX of 1879, s. 11.]

Collection of dues. Voucher to be given.

400*b*. The Customs collector shall collect the coast-light dues, and shall grant to the person paying the same a voucher in writing under his hand, setting forth the name of his office, the port at which the coast-light dues are paid, the amount so paid, the name, tonnage, and other proper description of the vessel in respect of which such payment is made, and the voyage on which she is or has been bound.—[Burma Coast-lights Act, 1879—Act IX of 1879, s. 7.]

Distraint for Dues.

Power of distress for light dues.

Power to distrain for Dues.

401. If the owner or master of any ship fails on demand of the authorised collector to pay the light dues due in respect thereof, it shall be lawful for such collector, in addition to any other remedy which he or the authority by whom he is appointed is entitled to use, to enter upon such ship, and distrain the goods, guns, tackle, or any other thing of or belonging to or on board such ship, and to detain such distress until the said light dues are paid; and if payment of the same is not made within the period of three days next ensuing such distress, he may at any time during the continuance of such non-payment cause the same to be appraised by two sufficient persons or sworn appraisers, and thereupon sell the same, and apply the proceeds in payment of the light dues due, together with all reasonable expenses incurred by him under this section, paying the surplus (if any), on demand, to the said owner or master.

On refusal to pay dues or expenses, the collector may distrain and sell.

401*a*. If the master of any vessel refuses or neglects to pay to the Customs collector on demand by him the amount of any dues or expenses payable in respect of such vessel under this Act, the Customs collector may distrain or arrest such vessel, and the tackle, apparel, and furniture belonging thereto or any part thereof, and detain the same until the amount of such dues or expenses is paid; and in case any part of such dues or expenses, or of the costs of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest so made, the Customs collector may cause the vessel or other thing so distrained or arrested to

be sold, and with the proceeds of such sale may satisfy such dues, expenses, and costs (including the costs of sale) remaining unpaid, and shall render the surplus (if any) to the master of such vessel upon demand.—[Burma Coast-lights Act, 1879—Act IX of 1877, s. 10.] *Distraint for Dues.*

401*b*. The master of any vessel departing from or entering any port in British India upon, or in the course of, or at the termination of, any voyage shall, upon the demand of the Customs collector, specify upon what voyage she is or has been bound.—[Burma Coast-lights Act, 1879—Act IX of 1859, s. 12.] *Master to specify on demand voyage on which vessel is bound.*

401*c*. If the master of any vessel evades, or attempts to evade, the payment of any coast-light dues, expenses, or costs payable in respect of such vessel under this Act, he shall be punished with fine which may extend to two hundred rupees.—[Burma Coast-lights Act, 1879—Act IX of 1879, s. 13.] *Penalty for evading payment of dues, &c.*

Account of Light Dues.

Account of Light Dues.

402. Every person appointed to collect light dues by any of the said general lighthouse authorities shall collect all light dues payable at the port or place at which he is so appointed, whether the same be collected on account of such last-mentioned authority or of the other general lighthouse authorities, and shall pay over to the general lighthouse authority by whom he was appointed, or as it directs the whole amount of light dues received by him, and the authority so receiving the same shall keep accounts thereof, and shall cause the same to be remitted to Her Majesty's Paymaster General in such manner as the Board of Trade directs. *Light dues, how to be paid over and accounted for.*

402*a*. The Governor General in Council shall, on or before the first day of October in each year, publish in the *Gazette of India* a statement showing the amount received on account of coast-light dues during the year ending on the thirty-first day of March last preceding, and the amount expended during the same period on the establishment and maintenance of coast-lights in the eastern part of the Bay of Bengal—[Burma Coast-lights Act, 1879—Act IX of 1879, s. 16.] *Statement of receipts and expenditure to be published.*

Application of Light Dues.

Application of Light Dues.

403. All light dues coming to the hands of any of the said general lighthouse authorities under this Act shall be carried to the account of the Mercantile Marine Fund hereinafter mentioned, and shall be dealt with in manner hereinafter prescribed. *Application of light dues.*

403*a*. The port-due leviable under this Act in either of the ports of Maulmain and Bassein shall, to the extent of one anna and six pie per ton, be applicable in the first place to defray the expenses of maintaining the existing port-lights of British Burma.—[Indian Ports Act, 1875—Act XII of 1875, s. 77.][1] *Application of Maulmain and Bassein port dues.*

[1] As amended by s. 17 of Act IX of 1879.

Application of Light Dues.

Application and accounts of light dues.

403*b*. All light dues leviable by any local authority under this Act shall be applied for the purposes of the construction, placing, maintenance, and improvement of the lighthouses, buoys, and beacons in respect of which the same are levied, and for no other purpose:

The local authority to whom the same are paid shall keep a separate account of the receipt and expenditure of such dues, and shall once in every year or at such other time as the Board of Trade may determine, send a copy of such account to the Board of Trade, and shall send the same in such form and shall give such particulars in relation thereto as the Board of Trade may require:

Her Majesty may by Order in Council from time to time reduce, alter, or increase all or any of such dues, so that the same may, so far as it is practicable, be sufficient and not more than sufficient for the payment of the expenses incurred by the local authority in respect of the lighthouses, buoys, or beacons for which the dues are levied.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 47.]

Magistrate to decide disputes.

403*c*. If any dispute arises as to whether any vessel is chargeable with coast-light dues, expenses, or costs under this Act, or as to the amount of such dues, expenses, or costs, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined in the towns of Calcutta, Madras, and Bombay by a presidency magistrate, and elsewhere by any magistrate exercising at the place where the dispute arises powers under the Code of Criminal Procedure not less than those of a magistrate of the second class. All decisions under this section shall be final.—[Burma Coast-lights Act, 1879—Act IX of 1879, s. 14.]

Saving of prosecutions under other Laws.

403*d*. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act: provided that no person shall be punished twice for the same act or omission.—[Burma Coast-lights Act, 1879—Act IX of 1879, s. 15.]

Construction of and Dues for New Lighthouses.

New Lighthouses.

Power to lighthouse authorities to erect, place, and alter lighthouses, buoys, and beacons.

404. Each of the said general lighthouse authorities shall have power, within its jurisdiction, to execute the following works and do the following things (that is to say)—

(1) To erect or place new lighthouses, with all requisite works, roads, and appurtenances, or alter or remove any existing lighthouses:

(2) To erect or place any new buoys or beacons, or alter or remove any existing buoys or beacons:

(3) To take and purchase any land which may be necessary for the above purposes, or for the maintenance of the works or the residence of the light-keepers:

(4) To vary the character of any lighthouse, or the mode of exhibiting lights therein:

(5) To sell any land belonging to it.

New Lighthouses.

But the exercise of the above power shall, in the case of the said Commissioners and Corporation, be subject to the restrictions hereinafter contained.

Works for lighthouses, &c., to be executed under Act.

404*a*. The works to be undertaken by the Board under this Act may include—

(1) wharves, docks, and piers within the port or on the foreshore of the port, with all necessary and convenient arches, drains, fences, roads, railways, and approaches;

(2) tramways, warehouses, sheds, engines, and other appliances for conveying, receiving, and storing goods landed, or to be shipped, or otherwise;

(3) lighthouses, light-ships, beacons, pilot-boats, and other appliances necessary for the safe navigation of the port and of the approaches thereto within a distance of three miles from the limits of the port;

(4) laying down moorings, and the erection of cranes, scales, and all means and appliances necessary for berthing, loading, and unloading vessels;

(5) reclaiming, excavating, enclosing, and raising any part of the foreshore of the port vested in the Board, when such reclamation, excavation, enclosure, or raising may be necessary for any of the purposes of this Act;

(6) the construction and application of dredges and other machines for cleaning, deepening, and improving any portion of the port or foreshore aforesaid;

(7) the construction of such works, without the limits of the port, as shall be necessary for the protection of works executed by the Board within the port, and all such other works and appliances as may, in the opinion of the Board, be necessary for carrying out the purposes of this Act:

Procedure before commencement of new work.

Provided always that no new work, the estimated cost of which exceeds two thousand rupees, shall be commenced by the Board, nor shall any contract be entered into by the Board in respect of any such new work, until a plan and estimate of such work shall have been submitted to the Board and considered and approved by them; nor shall any new work the estimated cost of which exceeds two lakhs of rupees be commenced until such plan and estimate shall have been submitted to and approved by Government.—[Bombay Port Trust Act, 1879—Bom: Act VI of 1879, s. 68.]

Loan by Public Works Loan Commissioners.

404*b*. For the purpose of constructing a lighthouse on the said Great Basses Rock, the Public Works Loan Commissioners are hereby required to advance, in pursuance of the principal Acts,[1] out of the moneys at their disposal which are applicable for advances under the Harbours and Passing Tolls, &c., Act, 1861, a sum or sums not exceeding in the whole seventy thousand pounds, at interest at the rate of three and a quarter per cent. per annum, such sums to

[1] Merchant Shipping Act, 1854, and the Merchant Shipping Act Amendment Act, 1855.

New Lighthouses.

be repayable within a period not exceeding fifty years, and to be secured on the fund formed out of the dues mentioned in this Act.—[Basses Lights Act, 1869, 32 & 33 Vic., c. 77, s. 3.]

Guarantee of loan.

404*c*. The Commissioners of Her Majesty's Treasury are hereby authorised to guarantee jointly with the Secretary of State in Council of India the principal and interest of the advances made by the Public Works Loan Commissioners for the purpose aforesaid, not exceeding the sum of seventy thousand pounds.

The Commissioners of Her Majesty's Treasury are hereby authorised to cause to be issued from time to time, out of the growing produce of the Consolidated Fund, such sums of money as may at any time be required to be paid to fulfil the guarantee in respect of one moiety of the said principal and interest.—[Basses Lights Act, 1869, 32 & 33 Vic., c. 77, s. 4.]

Accounts to be laid before Parliament.

404*d*. The Commissioners of Her Majesty's Treasury and the Secretary of State in Council of India shall respectively cause to be prepared and laid before both Houses of Parliament an account of all sums issued and paid respectively for the purposes of the guarantee under this Act within three months after the same are so issued or paid, if Parliament be then sitting, or, if Parliament be not sitting, then within fourteen days after the then next meeting of Parliament.—[Basses Lights Act, 1869, 32 & 33 Vic., c. 77, s. 6.]

Loan by Public Works Loan Commissioners.

404*e*. For the purpose of constructing lighthouses on the said Great Basses Rock and Little Basses Rock, the Public Works Loan Commissioners are hereby required to advance in pursuance of the principal Acts,[1] out of the moneys at their disposal, which are applicable for advances under the Harbours and Passing Tolls, &c., Act, 1861, in addition to the loan of 1869, a sum or sums not exceeding in the whole seventy-five thousand pounds. The sums advanced by the Public Works Loan Commissioners in pursuance of this Act shall be secured on the fund formed out of the dues mentioned in this Act, and shall be repayable, as to each portion thereof, within a period not exceeding fifty years from the date of the advance of such portion.

When the aggregate amount borrowed from the Public Works Loan Commissioners in respect of the principal of the loan of 1869, and of the loan advanced in pursuance of this Act, does not exceed one hundred thousand pounds, the interest payable in respect thereof shall be at the rate of three pounds five shillings per annum on each hundred pounds; but when such aggregate amount exceeds one hundred thousand pounds, the interest payable in respect of one hundred thousand pounds shall be at the rate aforesaid, and the interest payable in respect of the excess shall be at the rate of five pounds per annum on each hundred pounds.—[Basses Lights Act, 1872, 35 & 36 Vic., c. 55, s. 3.]

Substitution of lighthouse for lightship in Order in Council as to dues.

404*f*. As soon as a light is exhibited in the Little Basses lighthouse, so much of the said Order in Council of the eleventh day of November one thousand eight hundred and sixty-nine as directs what dues are to be paid shall be

[1] Merchant Shipping Act, 1854, and the Merchant Shipping Act Amendment Act, 1855.

construed as if Little Basses lighthouse were substituted therein for Little Basses lightship, and while such order remains in force the dues shall be paid under the said order accordingly, in like manner as if a new order, altered as provided by this section, had been made in the manner and with the consent required by the principal Acts. *New Lighthouses.*

The dues payable in respect of the Great Basses lighthouse and the Little Basses lighthouse shall be altered only with the consent—

(*a*) so long as the said guarantee is in force, of the guarantors; and

(*b*) so long as any money is due to the Public Works Loan Commissioners in pursuance of this Act, of the Commissioners of Her Majesty's Treasury.—[Basses Lights Act, 1872, 35 & 36 Vic., c. 55, s. 4.]

404*g*. As soon as may be after the passing of this Act all sums then remaining due to the Commissioners of Her Majesty's Treasury for the establishment of the said Little Basses lightship, and any further expenses of such establishment remaining unpaid, shall be paid out of the balance standing to the credit of the fund formed out of the dues received in respect of such lightship, or in respect of the Great Basses lighthouse and such lightship, and the remainder of the last-mentioned balance shall form part of the fund formed by this Act.—[Basses Lights Act, 1872, 35 & 36 Vic., c. 55, s. 5.] *Payment of balances due for Little Basses lightship.*

404*h*. The dues levied under the said Order in Council of the eleventh day of November one thousand eight hundred and sixty-nine, or any new order made in lieu thereof, in respect of the Great Basses lighthouse, and of the Little Basses lighthouse (after deducting any expenses incurred in collecting the same), shall form one fund, which shall be applied for the purpose of paying the expenses incurred in erecting and maintaining such lighthouses, and for no other purpose whatever; and the priority according to which such expenses shall be paid shall (so far as conveniently may be, and subject to any other arrangement made so long as the said guarantee is in force with the consent of the guarantors) be as follows:— *Application of dues of Great and Little Basses lights.*

(1) The expenses of maintaining such lighthouses:

(2) Then the interest on the unpaid balance of the loan of 1869 and the loan advanced in pursuance of this Act:

(3) Then the amount for the time being required for repaying the principal of the loan of 1869 and the loan advanced in pursuance of this Act:

(4) Then the amount required for repaying *pari passu* to the guarantors all sums which they may respectively have paid on account of the said guarantee, with interest on such sums after the rate of five per cent. per annum from the time at which they were paid; until a light is exhibited in the Little Basses lighthouse, the provisions of this section shall be construed as if the term "Little Basses lighthouse" included the Little Basses lightship.—[Basses Lights Act, 1872, 35 & 36 Vic., c. 55, s. 6.]

404*i*. Nothing in this Act shall prejudice any security or guarantee given under the Basses Lights Act, 1869; and the loan of 1869 shall be secured on *Saving for securities and guarantee under.*

The Lighthouses.

32 & 33 Vic., c. 77.

This power in the case of the Commissioners and Corporation to be subject to approval by Trinity House, with appeal to Board of Trade.

the fund formed out of the dues as the fund mentioned in the Basses Lights Act, 1869.—[Basses Lights Act, 1872, 35 & 36 Vic., c. 55, s. 7.]

405. Previously to undertaking any such work as aforesaid,[1] the said Commissioners or Corporation, as the case may be, shall forward a notice, specifying fully the nature of the work proposed to be undertaken by them and their reasons for undertaking the same, to the Trinity House, who shall take the proposed scheme into their consideration, and notify to the said Commissioners or Corporation their approval or rejection thereof with or without modifications; but no such notification shall be binding on the said Commissioners or Corporation until the same has been sanctioned by the Board of Trade in manner hereinafter mentioned; and at any time previous to such sanction being given the said Commissioners or Corporation may forward to the Trinity House and the Board of Trade, or either of them, any objections to, or observations upon, or suggestions in respect of, such notification.

Sanction of Board of Trade how to be obtained.

406. In order to obtain such sanction as aforesaid, the Trinity House shall forward a copy of their notification, accompanied by copies of all communications that have passed between the Trinity House and the said Commissioners or Corporation, to the Board of Trade; and such Board shall have power to give any directions they may think fit in relation to the matters submitted to them, by granting or withholding their sanction, either wholly or partially, and either with or without modification.

Trinity House to inform Commissioners or Corporation of decision of Board of Trade.

407. The Trinity House shall forthwith communicate the directions given by the Board of Trade in relation to the matters aforesaid to the said Commissioners or Corporation, and the said Commissioners or Corporation shall, upon the receipt of such directions, be bound to act in conformity therewith, and to do or forbear doing anything thereby directed to be done or forborne.

Power to Trinity House, with sanction of Board of Trade, to compel execution of works by Commissioners and Corporation.

408. The Trinity House shall have power to direct the said Commissioners and Corporation, or either of them, to execute the following works (that is to say)—

(1) To continue any existing lighthouses, buoys, or beacons;

(2) To erect or place any new lighthouses, buoys, or beacons, or alter or remove any existing lighthouses, buoys, or beacons:

(3) To vary the character of any lighthouse, or the mode of exhibiting lights therein:

But no such directions shall be issued to the said Commissioners or Corporation until the issue thereof has been sanctioned by the Board of Trade; such sanction to be obtained by the Trinity House in manner hereinafter mentioned.

Sanction of Board of Trade how to be obtained.

409. Previously to issuing any such directions as aforesaid the Trinity House shall make an application to the Board of Trade, stating fully the nature of the work to which such directions relate, and their reasons for directing the same; and shall at the same time give notice to the said Commissioners or Corporation respectively of such their application, by causing written notice of the said application and a copy of the proposed directions to

[1] See s. 404.

be left at or sent to the office of the said Commissioners in Edinburgh, or the office of the said corporation in Dublin, as the case may be; and opportunity shall be afforded to the said Commissioners or Corporation to submit any observations they may see fit to make with respect to such application to the Trinity House, and to the Board of Trade; and if thereupon the said Trinity House adhere to their said directions, and if the Board of Trade concur therein, and if such adherence and concurrence is duly notified to the said Commissioners or Corporation, it shall be their duty within a reasonable time after such notification is made to carry the said directions into effect.

New Lighthouses.

410. Upon the completion of any new lighthouse, buoy, or beacon, Her Majesty may by Order in Council fix such dues in respect thereof to be paid by the master or owner of every ship which passes the same or derives benefit therefrom as Her Majesty may deem reasonable, and may from time to time alter the amount thereof; and such dues shall be paid and collected in the same manner, by the same means, and subject to the same conditions, in, by, and subject to which the light dues authorised to be levied by this Act are paid and collected.

Her Majesty may by Order in Council fix dues to be taken for new lighthouses.

411. No dues for any lighthouse, buoy, or beacon to be erected or placed in or near the Islands of Guernsey, Jersey, Sark, or Alderney shall be taken in the said Islands of Guernsey or Jersey without the consent of the States of the said islands respectively; nor shall any powers hereinbefore given to the Trinity House in respect of any lighthouse, buoy, or beacon erected or placed in the Islands of Guernsey or Jersey, or hereafter to be erected or placed in such islands, be exercised without the consent of Her Majesty in Council.

No dues to be levied in the Channel Islands without consent of the States, and no power to be exercised therein but by order in Council.

412. The Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Act (Scotland), 1845, shall be incorporated in this Act, and shall apply to all lighthouses to be constructed and all land to be purchased under the powers thereof.

Incorporation of 8 & 9 Vic. c. 18 and 19.

Surrender of Local Lighthouses.

Surrender of Local Lighthouses.

413. Every local authority holding any lighthouse, buoy, or beacon at any place within the jurisdiction of any of the said general lighthouse authorities may, if they think fit, surrender or sell the same to such general lighthouse authority, and such authority, may, with the consent of the Board of Trade, accept or purchase the same, the purchase money (if any) to be paid out of the said Mercantile Marine Fund; and thereupon such lighthouse and its appurtenances, or such buoy or beacon, as the case may be, shall become vested in such authority; and such authority shall be entitled to receive all dues lawfully payable in respect thereof at the time of such surrender or sale, or, if Her Majesty by Order in Council so directs, such dues as might be fixed and made payable if the same were a new lighthouse, buoy, or beacon; and such lighthouse, buoy, or beacon, and the dues payable in respect thereof, shall after such surrender or sale be subject in all respects

Local lighthouses may be surrendered to general lighthouse authorities.

Regulation of local lights.

to the same regulations as other lighthouses and lightships, buoys, and beacons provided for by this Act.

Damage to Lights, Buoys, and Beacons.

Damage to lights, buoys and beacons.

Penalty for injuring lights, buoys, and beacons.

414. If any person wilfully or negligently commits any of the following offences (that is to say)—

(1) Injures any lighthouse, or the lights exhibited therein, or any buoy or beacon;

(2) Removes, alters, or destroys any lightship, buoy, or beacon;

(3) Rides by, makes fast to, or runs foul of, any lightship or buoy;

He shall, in addition to the expenses of making good any damage so occasioned, incur a penalty not exceeding fifty pounds.

Mischief by destroying or moving or rendering less useful a lighthouse or sea-mark.

414*a*. Whoever commits mischief by destroying or moving any lighthouse or other light used at sea as a sea-mark, or any sea-mark or buoy or other thing placed as a guide for navigators, or by any Act which renders any such lighthouse, sea-mark, buoy, or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.—[Indian Penal Code—Act XLV of 1860, s. 433.]

Prevention of False Lights.

Prevention of false lights.

General lighthouse authority may prohibit false lights.

415. Whenever any fire or light is burnt or exhibited at such place or in such manner as to be liable to be mistaken for a light proceeding from a lighthouse, it shall be lawful for the general lighthouse authority within whose jurisdiction such place is situate to serve a notice upon the owner of the place where the fire or light is burnt or exhibited, or on the person having the charge of such fire or light, either personally, or by delivery at the place of abode of such owner or person, or by affixing the same in some conspicuous spot near to such fire or light, and by such notice to direct such owner or person, within a reasonable time to be therein specified, to take effectual means for the extinguishing or effectually screening such existing light and for preventing for the future any similar fire or light; and any owner or person disobeying such notice shall be deemed guilty of a common nuisance, and, in addition to any other penalties or liabilities of any kind thereby incurred, shall incur a penalty not exceeding one hundred pounds.

If not obeyed, they may make such lights.

416. If any owner or person served with such notice as aforesaid neglects for a period of seven days to extinguish or effectually screen the fire or light therein mentioned, it shall be lawful for the general lighthouse authority within whose jurisdiction the same may be, by their servants or workmen, to enter upon the place whereon the same may be, and forthwith to extinguish such fire or light, doing no unnecessary damage; and all expenses incurred by such authority in such extinction may be recovered from such person or

owner as aforesaid in the same way as penalties are hereby directed to be recoverable.

Prevention of False Lights.

Exhibition of a false light, mark, or buoy.

416*a*. Whoever exhibits any false light, mark, or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.—[Indian Penal Code—Act XLV of 1860, s. 281.]

Exemption of Lighthouses from Taxation.

Exemption of Lighthouses from Taxation.

Tax on certain buildings; exemption of lighthouses.

416*b*. The commissioner may impose an annual tax upon all houses, buildings, and lands, excepting lighthouses,[1] public piers, wharves, jetties, and all other works connected with the harbour of Madras, all places of public worship, and all burial and burning grounds.—[City of Madras Municipal Act, 1878—[Madras Act V of 1878, s. 119.]

Colonial Lighthouses.

Colonial Lighthouses.

Her Majesty may by Order in Council fix dues for colonial lighthouses.

416*c*. In any case in which any lighthouse, buoy, or beacon has been or is hereafter erected or placed on or near the coasts of any British possession, by or with the consent of the legislative authority of such possession, Her Majesty may, by Order in Council, fix such dues in respect thereof, to be paid by the owner or master of every ship which passes the same or derives benefit therefrom, as Her Majesty may deem reasonable, and may in like manner from time to time increase, diminish, or repeal such dues; and from the time specified in such order for the commencement of the dues thereby fixed, increased, or diminished, the same shall be leviable throughout Her Majesty's dominions, in manner hereinafter mentioned.—[Merchant Shipping Act Amendment Act, 1855, 18 & 19 Vic., c. 91, s. 2.]

No such dues to be levied in any colony without the consent of the colonial legislature.

416*d*. No such dues as aforesaid shall be levied in any colony unless and until the legislative authority in such colony has, either by address to the Crown, or by an Act or ordinance duly passed, signified its opinion that the same ought to be levied in such colony.—[Merchant Shipping Act Amendment Act, 1855, 18 & 19 Vic., c. 91, s. 3.]

Mode of collecting the said dues.

17 & 18 Vic., c. 104, ss. 399, 400, 401.

416*e*. The said dues shall in the United Kingdom be collected by the same persons by whom, and by the same means, in the same manner, and subject to the same conditions, so far as circumstances permit, by, in, and subject to which the light dues leviable under the Merchant Shipping Act, 1854, are collected, and shall in each British possession abroad be collected by such persons as the Governor of such possession abroad may appoint for the purpose, and shall be collected by the same means, in the same manner, and subject to the same conditions, so far as circumstances permit, by, in, and subject to which the light dues leviable under the Merchant Shipping Act, 1854,

[1] See s. 430.

Colonial lighthouses.

are paid and collected, or by such other means, in such other manner, and subject to such other conditions, as the legislative authority in such possession may direct.—[Merchant Shipping Act Amendment Act, 1855, 18 & 19 Vic., c. 91, s. 4.]

Dues to be paid over to Her Majesty's Paymaster General.

416*f*. All dues levied under this Act shall be paid over to Her Majesty's Paymaster General at such times and in such manner as the Board of Trade may direct, and shall be applied, paid, and dealt with by him, for the purposes hereinafter mentioned, in such manner as such Board may direct.—[Merchant Shipping Act Amendment Act, 1855, 18 & 19 Vic., c. 91, s. 5.]

Dues to be applied to expenses of lighthouse, &c., for which they are levied.

416*g*. The dues levied under the authority of this Act in respect of any such lighthouse, buoy, or beacon as aforesaid shall, after deducting any expenses incurred in collecting the same, be applied for the purpose of paying the expenses incurred in erecting and maintaining such lighthouse, buoy, or beacon, and for no other purpose whatever.—[Merchant Shipping Act Amendment Act, 1855, 18 & 19 Vic., c. 91, s. 6.]

Power to borrow money on security of dues. 17 & 18 Vic., c. 104, ss. 424, 425, 426.

416*h*. For the purpose of constructing or repairing any such lighthouse, buoy, or beacon as aforesaid, the Board of Trade may raise, upon the security of the dues to be levied in respect thereof, such sums of money as they may deem fit; and the Commissioners of Her Majesty's Treasury, out of any money which may be provided by Parliament, the Public Works Loan Commissioners, or any other person or body of persons, may advance the same accordingly, such advances to be made in the same manner, with the same powers, and subject to the same provisions, so far as circumstances permit, in, with, and subject to which, under the Merchant Shipping Act, 1854, advances may be made upon the security of the mercantile marine fund for the construction and repair of lighthouses in the United Kingdom.—[Merchant Shipping Act Amendment Act, 1855, 18 & 19 Vic., c. 91, s. 7.]

Accounts for each lighthouse, &c., to be kept and laid before Parliament and to be audited. 17 & 18 Vic.

416*i*. Accounts shall be kept of all sums expended in the construction, repair, or maintenance of every lighthouse, buoy, or beacon in the British possessions abroad for which dues are levied under the authority of this Act, and of the dues received in respect thereof, in such manner as the Board of Trade may direct, and shall be laid before Parliament annually; and the said accounts shall be audited in such manner as Her Majesty may by Order in Council direct.—[Merchant Shipping Act Amendment Act, 1855, 18 & 19 Vic., c. 91, s. 8.]

PART VII.

MERCANTILE MARINE FUND.

Mercantile Marine Fund.

Sums to be carried to Mercantile Marine Fund.

417. The following sums shall be carried to a common fund, to be entitled the "Mercantile Marine Fund" (that is to say)—

(1) All fees and other sums (other than fines and forfeitures) received by the Board of Trade under the provisions of the third and fourth parts of this Act:

(2) All light dues or other sums received by or accruing to the Trinity House, the Commissioners of Northern Lighthouses, and the port of Dublin Corporation, under the sixth part of this Act: *Mercantile Marine Fund.*

(3) All rates and moneys received by the Trinity House under the local Act of the seventh year of Her present Majesty, chapter fifty-seven, for the regulation of lastage and ballastage in the river Thames:

(4) All fees and other sums mentioned in the table marked V in the schedule hereto which are received by receivers appointed under the eighth part of this Act: 8 & 7 Vic., c. 67.

And an account of the said fund, intituled "The Mercantile Marine Fund Account," shall be kept with Her Majesty's Paymaster General.

418. Subject to any prior charges that may be subsisting thereon by virtue of any Act or Acts of Parliament or otherwise, the said fund shall be chargeable with the following expenses (that is to say)—

(1) The salaries and other expenses connected with the local marine boards, the examinations, and the shipping offices, provided for by the third part of this Act: *Application of Mercantile Marine Fund.*

(2) *The salaries of surveyors and other expenses connected with the local marine boards, the examinations and the shipping offices provided for by the third part of this Act*—[Repealed by 39 & 40 Vic., c. 80, s. 45.]

(3) All expenses incurred by the general lighthouse authorities aforesaid in the works and services of lighthouses, buoys, and beacons provided for by the sixth part of this Act, or in the execution of any works necessary or expedient for the purpose of permanently reducing the expense of such works and services:

(4) All expenses incurred by the Trinity House in respect of lastage and ballastage in the river Thames:

(5) Such expenses for establishing and maintaining on the coasts of the United Kingdom proper life-boats, with the necessary crews and equipments, and for affording assistance towards the preservation of life and property in cases of shipwreck and distress at sea, and for rewarding the preservation of life in such cases, as the Board of Trade directs:

(6) Any expenses incurred in carrying into effect the provisions with regard to receivers and the performance of their duties contained in the eighth part of this Act:

(7) Any expenses which by this or any other Act of Parliament are specially charged thereon:

And shall, save as hereinafter mentioned, be applicable to no other purpose whatever.

418*a*. On and after the first day of January one thousand eight hundred and seventy-seven all fees payable in respect of the survey or measurement of ships under the Merchant Shipping Acts, 1854 to 1876, or in respect *Fees, salaries, and costs.*

Mercantile Marine Fund.

of any services performed by any person employed under the authority of the Passengers Act, 1855, shall continue to be paid to the superintendent of a mercantile marine office, at such times and in such manner as the Board of Trade from time to time direct, but shall be paid into the receipt of Her Majesty's Exchequer in such manner as the Treasury from time to time direct, and shall be carried to and form part of the Consolidated Fund of the United Kingdom. On and after the same day the salaries of all surveyors appointed under the Merchant Shipping Acts, 1854 to 1876, and so much of the expenses connected with the survey and measurement of ships under these Acts, and of the salaries and expenses of persons employed under the Passengers Act, 1855, as has heretofore been paid out of the Mercantile Marine Fund, shall be paid out of moneys provided by Parliament, and the Treasury shall have the like control over such salaries and expenses as has heretofore vested in the Board of Trade. There may be paid out of moneys, provided by Parliament, to any wreck commissioner, judge of a court of survey, assessor, registrar of a court of survey, detaining officer, scientific referee, and other officer or person appointed under this Act, such salary or remuneration (if any) as the Treasury from time to time direct.

There may be paid out of moneys provided by Parliament all costs and compensation payable by the Board of Trade in pursuance of this Act.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 39.]

Application of ballastage rates, 6 & 7 Vic., c. 57.

419. The said rates and monies received by the Trinity House under the said local Act of the seventh year of Her present Majesty, chapter fifty-seven, shall subject to the payment of such proportion of any prior charges subsisting on the Mercantile Marine Fund as may, in the opinion of the Board of Trade, be fairly chargeable thereon, and to the powers of raising money upon the credit of the said fund herein contained, be applicable only to services performed for the purpose of supplying ballast to or providing for the safety or convenience of such ships as navigate the said river Thames and the seas and channels leading thereto between Orfordness on the north and Dungeness on the south: provided that if, in addition to the duties performed in consideration of the said ballastage rates under the said local Act, the Trinity House, at the request or with the consent of the owners of masters of or agents for any ships, undertake to place ballast on board thereof or to unload ballast therefrom, they shall be entitled to charge for such additional duties such reasonable additional rate per ton for ballast so placed on board or unladen as Her Majesty by Order in Council from time to time approves.

Establishments for lighthouses and ballastage charged on fund to be fixed by Her Majesty in Council.

420. Her Majesty may from time to time, by and with the advice of Her Privy Council, fix the establishments to be maintained by each of the said general lighthouse authorities on account of the services of lighthouses, buoys, and beacons, and also, as regards the Trinity House, on account of the service of lastage and ballastage in the river Thames, or the annual or other sums to be paid out of the said fund in respect of such establishments; and

if it appears that any part of the establishments of the said lighthouse authorities is maintained for the purposes of such duties and also for other purposes, to fix and from time to time alter the portion of the expense of such establishments to be paid out of the said fund; and no increase of any establishment or part of an establishment so fixed shall be made without the consent of the Board of Trade.

Mercantile Marine Fund.

421. The said general lighthouse authorities may from time to time, with the sanction of the Board of Trade, grant superannuations or compensations to persons whose salaries are payable out of the said fund, and who are discharged or retire; so nevertheless that no superannuation allowance or compensation to any person so discharged or retiring shall exceed the proportion of his salary which might be granted to a person in the public civil service under the Act of the fourth and fifth years of King William the Fourth, chapter twenty-four, or under any other Act for regulating such superannuation allowances or compensations for the time being in force.

Power to grant superannuation allowances.

422. Each of the said general lighthouse authorities shall from time to time submit to the Board of Trade estimates of all expenses to be incurred by them in respect of the matters aforesaid, other than the establishment expenses for the time being allowed by Order in Council as aforesaid; and shall also, whenever in providing for any sudden emergency it is necessary to incur any expense without waiting until an estimate can be sanctioned, as soon as possible send to the Board of Trade a full account of such expense; and the Board of Trade shall consider and may approve such estimates and accounts, either with or without modification.

Estimates and accounts for other expenses to be approved by the Board of Trade.

423. No expense of any of the said general lighthouse authorities in respect of the said services shall be paid out of the Mercantile Marine Fund, or allowed in account, other than the sums so allowed for establishment expenses as aforesaid, or included in estimates or accounts approved by the Board of Trade.

No expense to be allowed unless sanctioned by Board of Trade.

424. For the purpose of the construction and repair of lighthouses, and of other extraordinary expenses connected with the said services, the Treasury are authorised from time to time, upon the application of the Board of Trade, to advance out of the growing produce of the Consolidated Fund of the United Kingdom such sums of money, upon such terms, and at such rate of interest as they think fit, and to pay the same into the Mercantile Marine Fund Account, so nevertheless that the whole sum for the time being due in respect of such advances shall never at any one time exceed two hundred thousand pounds; and upon any advance being so made the sum so advanced and the interest shall be a charge on the Mercantile Marine Fund, and upon the dues, rates, fees, and payments so to be carried thereto as aforesaid; and the Board of Trade shall make such provision for the repayment thereof out of the said fund, either by forming a sinking fund or otherwise, as the Treasury may require: provided that no such advance shall prevent any lawful reduction of any of the said dues, rates, fees, or payments, if such reduction be assented to by the Treasury.

For the purpose of erecting and repairing lighthouses, and other extraordinary expenses, Treasury may advance money.

Mercantile Marine Fund.

Power to Board of Trade to borrow money on the credit of fund.

425. The Board of Trade may also, for the purpose last aforesaid, raise money by mortgaging the Mercantile Marine Fund, and the several dues rates fees, and payments so to be carried thereto as aforesaid, or any of them, or any part thereof, to any person or body of persons; and every such mortgage shall be in such form, and under the hand and seal of such person or persons, as the President of the said Board for the time being may direct; and no person or body of persons lending money upon any such mortgage shall be bound to see to the purpose for which the same is raised, or to the mode in which it is applied.

Power to Public Works Loan Commissioners to advance money on the credit of the fund.

426. The Public Works Loan Commissioners may also, for the purpose last aforesaid, advance money upon mortgage of the said Mercantile Marine Fund, and the several dues, rates, fees, and payments so to be carried thereto as aforesaid, or any of them, or any part thereof, without requiring any further security than such mortgage as aforesaid; but every mortgage so made to the said Public Works Loan Commissioners, or their secretary for the time being, shall be made under and in pursuance of the Acts of Parliament regulating the proceedings of the said Public Works Loan Commissioners, anything herein contained to the contrary notwithstanding: provided that no advance which may be made by the said Public Works Loan Commissioners shall prevent any lawful reduction of any of the said dues, rates, fees, or payments, if such reduction is assented to by the said Public Works Loan Commissioners.

Lighthouse authorities to account for receipts and expenditure to Board of Trade.

427. Each of the said general lighthouse authorities shall account to the Board of Trade for their receipts from the said light dues and ballastage rates, and for their expenditure as regards expenses paid out of the said fund, in such form, and at such times, and with such details, explanations, and vouchers, as the Board of Trade requires, and shall, when required by such Board, permit all books of accounts kept by or under their respective direction to be inspected and examined by such persons as the said Board appoints for that purpose.

Accounts of fund to be audited by Commissioners of Audit.

428. The Board of Trade shall render to the Commissioners for Auditing the Public Accounts periodical accounts of the whole of the receipts and expenditure of the Mercantile Marine Fund, such accounts to be signed and declared to by the accountant appointed by the Board of Trade for that purpose; and in case of default it shall be lawful for the Treasury to make or direct such allowance as under the circumstances of the case they may think fit in respect thereof.

Accounts to be laid before Parliament.

429. The Board of Trade shall as soon as practicable after the meeting of Parliament in every year cause the account of the Mercantile Marine Fund for the then preceding year to be laid before both Houses of Parliament.

Property used for the purposes of parts III and VI of Act to be exempt from all rates and taxes.

430. All lighthouses, buoys, beacons, and light dues, and all other rates fees, or payments accruing to or forming part of the said fund, and all premises or property belonging to or occupied by any of the said general lighthouse authorities or the Board of Trade, which are used or applied for the purposes

of any of the services for which such dues, rates, fees, and payments are received, and all instruments or writings used by or under the direction of any of the said general lighthouse authorities or the Board of Trade in carrying on the said services, shall be exempted from all public, parochial, and local taxes duties, and rates of every kind. *Mercantile Marine Fund.*

431. The ships [and boats[1]] belonging to or used by any of the said general lighthouse authorities, or by the Board of Trade, shall be privileged to enter, resort to, and use any harbours, ports, docks, or piers in the United Kingdom without payment of any tolls, dues, or rates of any kind. *Ships of lighthouse authorities exempt from harbour dues.*

PART VIII.

Wrecks, Casualties, and Salvage.

Inquiries into Wrecks.

Inquiries into Wrecks.

432. In any of the cases following (that is to say)— *Inquiries to be instituted in cases of wreck and casualty.*

Whenever any ship is lost, abandoned, or materially damaged on or near the coasts of the United Kingdom;

Whenever any ship causes loss or material damage to any other ship on or near such coasts;

Whenever by reason of any casualty happening to or on board of any ship on or near such coasts loss of life ensues;

Whenever any such loss, abandonment, damage, or casualty happens elsewhere, and any competent witnesses thereof arrive or are found at any place in the United Kingdom;

It shall be lawful for the inspecting officer of the coast guard or the principal officer of Customs residing at or near the place where such loss, abandonment, damage, or casualty occurred, if the same occurred on or near the coasts of the United Kingdom, but if elsewhere, at or near the place where such witnesses as aforesaid arrive or are found or can be conveniently examined, or for any other person appointed for the purpose by the Board of Trade, to make inquiry respecting such loss, abandonment, damage, or casualty; and he shall for that purpose have all the powers given by the first part of this Act to inspectors appointed by the said Board.

432*a*. In the following cases— *Power to hold inquiries or formal investigations as to stranded and missing ships.*

(1) Whenever any ship on or near the coasts of the United Kingdom or any British ship elsewhere has been stranded or damaged, and any witness is found at any place in the United Kingdom; or

(2) Whenever a British ship has been lost or is supposed to have been lost, and any evidence can be obtained in the United Kingdom as to the circumstances under which she proceeded to sea or was last heard of,

[1] Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 48.

Inquiries into casualties.

the Board of Trade (without prejudice to any other powers) may, if they think fit, cause an inquiry to be made or formal investigation to be held; and all the provisions of the Merchant Shipping Acts, 1854 to 1876, shall apply to any such inquiry or investigation as if it had been made or held under the eighth part of the Merchant Shipping Act, 1854.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 32.]

Place of investigation.

432*b*. A formal investigation into a shipping casualty may be held at any place appointed in that behalf by the Board of Trade, and all enactments relating to the authority holding the investigation shall, for the purpose of the investigation, have effect as if the place so appointed were a place appointed for the exercise of the ordinary jurisdiction of that authority.—[Merchant Shipping Act, 1876,[1] 39 & 40 Vic., c. 80, s. 33.]

Formal investigation before justices.

433. If it appears to such officer or person as aforesaid, either upon or without any such preliminary inquiry as aforesaid, that a formal investigation is requisite or expedient, or if the Board of Trade so directs, he shall apply to any two justices, or to a stipendiary magistrate, to hear the case; and such justices or magistrate shall thereupon proceed to hear and try the same, and shall for that purpose, so far as relates to the summoning of parties, compelling the attendance of witnesses, and the regulation of the proceedings, have the same powers as if the same were a proceeding relating to an offence or cause of complaint upon which they or he have power to make a summary conviction or order, or as near thereto as circumstances permit; and it shall be the duty of such officer or person as aforesaid to superintend the management of the case, and to render such assistance to the said justices or magistrate as is in his power; and upon the conclusion of the case the said justices or magistrate shall send a report to the Board of Trade, containing a full statement of the case and of their or his opinion thereon, accompanied by such report of or extracts from the evidence, and such observations (if any) as they or he may think fit.

Investigation of accidents.

433*a*. If in any such case[2] a formal investigation appears to the Local Government to be requisite or expedient, the Local Government may order such investigation, and the provisions of section 4, sections 6 to 11, both inclusive, and sections 15 and 16 of the Merchant Shipping Act, 1875,[3] shall be applicable, as far as may be, to all proceedings under this section.—[Inland Steam Vessels—Ben. Act VII of 1879, s. 7.]

Power for Local Gov.

433*b*. (1) If in any such case[4] a formal investigation into the facts men-

[1] Nothing in 39 & 40 Vic., c. 80, applies to any vessel employed exclusively in trading or going from place to place in any river or in land water of which the whole or part is in any British possession.—[Section 44 of 39 & 40 Vic., c. 80.]

[2] See s. 326*b*.

[3] Repealed after 1st January 1881 by Act V of 1883, s. 2.

[4] The case of casualties set out in s. 326*a*.

tioned in section six[1] clause (*a*), (*b*), (*c*), (*d*), or (*e*), appears to the Local Government to be requisite or expedient, the Local Government (whether the notice is given or not) may appoint a special court, consisting of not less than two nor more than four persons, and direct that court to make the investigation, and may fix the place for making the same.

Government may appoint special court of investigation.

(2) One of the members of the court shall be a magistrate acting in or near the place where the investigation is made; another shall be some person conversant with maritime affairs; and the other or others (if any) shall be conversant with either maritime or mercantile affairs.—[Indian Merchant Shipping Act, 1883, Act V of 1883, s. 7.]

Appointment, duties, and powers of wreck commissioners for investigating shipping casualties.

433*c*. For the purpose of rendering investigations into shipping casualties more speedy and effectual it shall be lawful for the Lord High Chancellor of Great Britain to appoint from time to time some fit person or persons to be a wreck commissioner or wreck commissioners for the United Kingdom, so that there shall not be more than three such commissioners at any one time, and to remove any such wreck commissioner; and in case it shall become necessary to appoint a wreck commissioner in Ireland, the Lord Chancellor of Ireland shall have the appointment and the power of removal of such wreck commissioner.

It shall be the duty of a wreck commissioner, at the request of the Board of Trade, to hold any formal investigation into a loss, abandonment, damage, or casualty (in this Act called a shipping casualty) under the eighth part of the Merchant Shipping Act, 1854, and for that purpose he shall have the same jurisdiction and powers as are thereby conferred on two justices, and all the provisions of the Merchant Shipping Acts, 1854 to 1876, with respect to investigations conducted under the eighth part of the Merchant Shipping Act, 1854, shall apply to investigations held by a wreck commissioner.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 29.]

Power to appoint assessor.

434. *In cases where nautical [or engineering][2] skill and knowledge are required, the Board of Trade shall have the power, either at the request of such justices or magistrate, or at their own discretion, to appoint some person [or persons][2] of nautical [or engineering][2] skill and knowledge to act as an assessor [or*

[1] Facts mentioned in s. 6 (326*a*) are :—

(*a*) any ship has been lost, abandoned, stranded, or materially damaged on or near the coasts of British India; or

(*b*) by reason of any casualty happening to, or on board of, any ship on or near those coasts, loss of life has ensued; or

(*c*) any ship has caused loss or material damage to any other ships on or near those coasts; or

(*d*) any such loss, abandonment, stranding, damage, or casualty has happened elsewhere to, or on board of, any British ship, and any competent witnesses thereof have arrived or are to be found at any place in British India; or

(*e*) any British ship is supposed to have been lost and any evidence can be obtained in British India as to the circumstances under which she proceeded to sea or was last heard of.

[2] Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 24.

Inquiries and Reports.

assessors][1] *to such justices or magistrate, and such assessor [or assessors]*[1] *shall, upon the conclusion of the case, either signify his concurrence in their report by signing the same, or if he dissents therefrom shall signify such dissent and his reasons therefor to the Board of Trade.*—[Repealed by Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 45.]

Assessors and rules of procedure in formal investigations of shipping casualties.

434*a*. The wreck commissioner, justices, or other authority holding a formal investigation into a shipping casualty shall hold the same with the assistance of an assessor or assessors of nautical engineering or other special skill or knowledge, to be appointed by the commissioner, justices, or authority out of a list of persons for the time being approved for the purpose by a Secretary of State.

The commissioner, justices, or authority, when of opinion that the investigation is likely to involve the cancellation or suspension of the certificate of a master or mate, shall, where practicable, appoint a person having experience in the merchant service to be one of the assessors.

Each assessor shall either sign the report made on the investigation, or report to the Board of Trade his reasons for his dissent therefrom.

The Lord High Chancellor of Great Britain may from time to time, with the consent of the Treasury so far as relates to fees, make, and when made revoke, alter, and add to general rules for carrying into effect the enactments relating to formal investigations into shipping casualties, and in particular with respect to the summoning of assessors, the procedure, the parties, the persons allowed to appear, the notice to such parties and persons or to persons affected, and the amount and application of fees.

All such rules, while in force, shall have effect as if enacted in this Act.

Every formal investigation into a shipping casualty shall be conducted in such manner that if a charge is made against any person that person shall have an opportunity of making a defence.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 30.]

Power for other courts to hold investigations into casualties when so directed.

434*b*. Every court having Admiralty jurisdiction in British India, and the principal court of ordinary criminal jurisdiction at every port of British India where there is no court having Admiralty jurisdiction, is hereby authorised, when so directed by the Local Government, to make the investigations referred to in section seven(*a*).—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 8.]

Power for court of investigation to inquire into charges against masters, mates, and engineers.

434*c*. (1) Any court making an investigation under section seven (*a*) or section eight (*b*) may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master, mate, or engineer, as well as into any charge of a wrongful act or default on his part causing any such loss, abandonment, stranding, damage, or casualty as aforesaid.

[1] Merchant Shipping Act Amendment Act, 1862, 25 and 26, c. 63, s. 24.

(*a*) 434*b*.

(*b*) 434*d*.

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default, as aforesaid, arises against any master, mate, or engineer in the course of an investigation, the court shall, before the commencement of the inquiry, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.—[Indian Merchant Shipping Act, 1883, Act V of 1883, s. 9.] *Report to be furnished.*

434*d*. (1) If the Local Government has reason to believe that there are grounds for charging any master, mate, or engineer, holding a certificate granted by the Board of Trade or a Local Government, with incompetency or misconduct, otherwise than in the course of an investigation under section seven (*a*) or section eight (*b*), it may transmit a statement of the case to any court mentioned in section eight, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct that court to make an investigation into that charge. *Power for Local Government to direct investigation into charges of incompetency or misconduct.*

(2) Before commencing the investigation, the court shall cause the master, mate, or engineer so charged to be furnished with a copy of the statement transmitted by the Local Government.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 10.]

434*e*. For the purpose of an investigation under this chapter (*c*) into any charge against a master, mate, or engineer, the court may summon him to appear, and shall give him full opportunity of making a defence either in person or otherwise.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 11.] *Person accused to be heard.*

434*f*. For the purpose of any investigation under this chapter (*c*), the court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have— *Powers of courts as to evidence and regulation of proceedings.*

(*a*) if the court is a special court—the same powers as are exercisable by the principal court of ordinary criminal jurisdiction for the place at which the investigation is made;

(*b*) if the court is a court having Admiralty jurisdiction or a principal court of ordinary criminal jurisdiction—the same powers as are exercisable by that court in the exercise of its Admiralty or criminal jurisdiction (as the case may be).—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 12.]

434*g*. (1) When any investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, mate, or engineer, the court making the investigation shall constitute as its *Assessors.*

(*a*) 433*b*.

(*b*) 434*b*.

(*c*) Chap. II containing sections 433*b*, 326*a*, 434*b*, 434*c*, 434*d*, 434*e*, 434*f*, 434*g*, 434*h*, 434*i*, 434*j*, 434*k*.

Nothing in these sections shall apply to any ship belonging to or in the service of Her Majesty or of the Government of India, or belonging to any foreign Prince or state.—See s. 5, Act V of 1883.

Assessors.

assessors for the purpose of the investigation two persons having experience in the merchant service; and in every other investigation the court making it may, if it thinks fit, constitute as its assessors for the purposes of the investigation any person conversant with maritime affairs and willing to act as its assessor.

(2) The assessors shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings. But the exercise of all powers conferred on the court by this Act or any other enactment for the time being in force shall rest with the court.—[Indian Merchant Shipping Act 1883—Act V of 1883, s. 13.]

Power to arrest witnesses and enter and detention of vessels.

434*h*. (1) If any court making an investigation under this chapter[1] thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorise any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel.

(2) Any officer so authorised may, for the purpose of enforcing the entry, call to his aid any officers of police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code, section 186.

(3) No person shall be detained by virtue of this section for more than forty-eight hours.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 14.]

Power to commit for trial and bind over witnesses.

434*i*. (1) Whenever, in the course of any such investigation, it appears that any person has committed within the jurisdiction of any court in British India an offence punishable under any law in force in British India, the court making the investigation may (subject to such rules consistent with this Act as the High Court may from time to time prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper court, and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a magistrate of the first class or of a presidency magistrate.

(2) For the purposes of this section the recorder of Rangoon shall, within the local limits of his ordinary civil jurisdiction, be deemed to be the High Court.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 15.]

Depositions.

434*j*. (1) Whenever, in the course of any such trial, the testimony of any witness is required in relation to the subject-matter, any deposition previously made by him in relation to the same subject-matter before any court making an investigation under this chapter shall, if authenticated by the signature of the magistrate or presiding judge, be admissible in evidence on proof—

(*a*) that the witness cannot be found within the jurisdiction of the court before which the trial is held; and

(*b*) that it was made in the presence of the person accused, and that he had an opportunity of cross-examining the witness.

[1] Chapter II containing ss. 433*b*, 326*a*, 434*b*, 434*c*, 434*d*, 434*e*, 434*f*, 434*g*, 434*h*, 434*i*, 434*j*, 434*k*. Nothing in these sections shall apply to any ship belonging to or in the service of Her Majesty or of the Government of India, or belonging to any foreign Prince or state. See s. 5, Act V of 1883.

(2) A certificate by the magistrate or presiding judge that the deposition was made in the presence of the accused and that he had that opportunity shall, unless the contrary be proved, be sufficient evidence that it was so made and that he had that opportunity.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 16.]

Evidence of witnesses.

434*k*. (1) The court shall, in the case of all investigations under this chapter, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

Report of court to Local Government.

(2) In cases in which, under the Merchant Shipping Acts, 1854 to 1882, the court is required to send a report to the Board of Trade, the report shall be sent through the Local Government, and the transmission of the report to the Local Government shall be a sufficient compliance with this section.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 17.]

434*l*. Nothing in this Act shall affect the powers conferred by the Merchant Shipping Acts, 1854 to 1882, on the courts conducting investigations under sections seven, eight, nine, and ten[1] of this Act, to cancel or suspend certificates granted under any of the said Merchant Shipping Acts, or certificates to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 18.]

Saving of power to cancel or suspend certificates under English Acts.

434*m*. (1) When any such court cancels or suspends any such certificate, the Local Government may, if it thinks fit, and if it is so empowered by any enactment of a British Indian legislature for the time being in force grant under that enactment, but without examination, to the holder of the certificate, when the certificate is a certificate as master, a certificate of mate, and when the certificate is a certificate as mate or engineer, a certificate as mate or engineer, as the case may be, of a grade lower than that which he held at the time of the cancellation or suspension.

Power to issue lower certificates in lieu of cancelled or suspended certificates.

(2) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under that Act.

Sec. 63 Vict. c. 11.

(3) The Local Government may act under this section either in pursuance of a recommendation from the court or of its own motion.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 19.]

434*n*. Any certificate (whether of competency or service) which has been granted by any Local Government to any master, mate, or engineer, but has not been granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under the said Act, may be suspended or cancelled, by that or any other Local Government, in the following cases (that is to say)—

Power of Local Government to suspend or cancel certificates in certain cases.

(*a*) if, on any investigation made under this Act, the court reports that the loss, stranding, or abandonment of, or damage to, any ship,

[1] 433*b*, 434*b*, 434*c*, 434*d*.

Inquiries as to certificates.

or loss of life, has been caused by his wrongful act or default, or that he is incompetent, or has been guilty of any gross act of drunkenness, tyranny, or other misconduct;

(b) if, on any investigation made under the Merchant Shipping Acts, 1854 to 1882, or on any investigation made by any court or tribunal for the time being authorised by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates, or engineers of ships, or as to shipwrecks or other casualties affecting ships, the court or tribunal reports that the master, mate or engineer is incompetent, or has been guilty of any gross act of misconduct, drunkenness, or tyranny, or that the loss, stranding, or abandonment of, or damage to, any ship, or loss of life, has been caused by his wrongful act or default;

(c) if he is proved to have been convicted of any offence which, if committed in British India, would be non-bailable, or, if committed in England, would be a felony; and

(d) if (in case of a master) he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1854, or by any other law for the time being in force:

Provided that, in any case in which an investigation has been made into a charge against any master, mate, or engineer, a certificate shall not be suspended or cancelled under clause (a) unless the Local Government is satisfied that the holder of the certificate has been furnished before the commencement of the investigation with the copy of the report or statement required by section nine or section ten, as the case may be.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 20.]

Local Government may suspend or cancel certificate.

434o. The Local Government may suspend or cancel the certificate of any commander as aforesaid if he is reported by the court making such investigation to be incompetent or to have been guilty of misconduct, or if he has been convicted of a non-bailable offence.—[Inland Steam Vessels—Ben: Act VII of 1879, s. 8.]

Obligation to deliver up cancelled or suspended certificate.

434p. Every master, mate, or engineer whose certificate is cancelled or suspended under section twenty shall deliver it to the shipping master or to such other person as the Local Government which cancelled or suspended the certificate directs, and in default of such delivery shall, for each offence, be punished with fine which may extend to five hundred rupees.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 21.]

Powers of other Local Governments.

434q. If the Local Government which cancels or suspends under section twenty[1] a certificate of a master, mate, or engineer is not the Local Government that granted the same, the Local Government so cancelling or suspending

[1] See s. 434n.

the certificate shall report the proceedings and the fact of cancellation or suspension to the Local Government which granted the certificate.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 22.]

Report to Board of Trade.

434*r*. Every Local Government cancelling or suspending under section twenty[1] the certificate of a master, mate, or engineer shall, as soon as may be practicable, report to the Board of Trade the fact of such cancellation or suspension.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 23.]

Power to revoke cancellation or suspension and grant new certificate.

434*s*. (1) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section twenty,[1] or grant, without examination, to any person, whose certificate it has so cancelled, a new certificate of the same or of any lower grade.

(2) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under the said Act.

(3) A certificate of competency for a home-trade ship under Act I of 1859 shall be deemed, for the purposes of this section, to be of a lower grade than a certificate of competency for a foreign-going ship under the same Act.—[Indian Merchant Shipping Act, 1883—Act V of 1883, s. 24.]

Stipendiary magistrate to be the master-trade who is member of local marine board, and to be paid.

435. In places where there is a local marine board, and where a stipendiary magistrate is a member of such board, all such investigations as aforesaid shall, whenever he happens to be present, be made before such magistrate; and there shall be paid to such magistrate in respect of his services under this Act such remuneration, whether by way of annual increase of salary or otherwise, as Her Majesty's Secretary of State for the Home Department, with the consent of the Board of Trade, may direct; and such remuneration shall be paid out of the Mercantile Marine Fund.

Costs of such investigations.

436. The said justice or magistrate may make such order with respect to the costs of any such investigation or any portion thereof as they or he may deem just, and such costs shall be paid accordingly, and shall be recoverable in the same manner as other costs incurred in summary proceedings before them or him; and the Board of Trade may, if in any case it thinks fit so to do, pay the expense of any such investigation [*and may pay to such assessor as aforesaid such remuneration as it thinks fit.*][2]

Investigations in Scotland.

437. In the case of any such investigation as aforesaid to be held in Scotland, the Board of Trade may, if it so thinks fit, remit the same to the Lord Advocate, to be prosecuted in such manner as he may direct [*and, in case he so requires, with the assistance of such person (or persons)*[3] *of nautical (or engineering)*[3] *skill and knowledge as the Board of Trade may appoint for the purpose.*][4]

[1] See *s.* 434*n*.

[2] Repealed by the Statute Law Revision Act, 1878.

[3] Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 23.

[4] Repealed by Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 45.

Inquiries into Losses.

Master or mate may be required to deliver certificate to be held until close of inquiry.

438. Such justices or magistrate as aforesaid may, or in Scotland such person or persons as is or are directed by the Lord Advocate to conduct the investigation may, if they or he think fit, require any master or mate possessing a certificate of competency or service whose conduct is called in question or appears to them or him likely to be called in question in the course of such investigation to deliver such certificate to them or him, and they or he shall hold the certificate so delivered until the conclusion of the investigation, and shall then either return the same to such master or mate, or, if their report is such as to enable the Board of Trade to cancel or suspend such certificate under the powers given to such Board by the third part of this Act, shall forward the same to the Board of Trade, to be dealt with as such Board thinks fit; and if any master or mate fails so to deliver his certificate when so required, he shall incur a penalty not exceeding fifty pounds.

Re-hearing of and appeal against investigation into shipping casualty or misconduct of officer. (17 & 18 Vic., c. 104.)

438*a*. (1) Where an investigation into the conduct of a master, mate, or engineer, or into a shipping casualty, has been held under the Merchant Shipping Act, 1854, or any Act amending the same, or under any provision for holding such investigations in a British possession, the Board of Trade may, in any case, and shall, if new and important evidence which could not be produced at the investigation has been discovered, or if for any other reason there has in their opinion been ground for suspecting a miscarriage of justice, order that the case be re-heard, either generally or as to any part thereof, and either by the court or authority by whom it was heard in the first instance, or by the wreck commissioner, or in England or Ireland by a judge of Her Majesty's High Court of Justice exercising jurisdiction in admiralty cases, or in Scotland by the Senior Lord Ordinary, or any other judge in the Court of Session whom the Lord President of that court may appoint for the purpose, and the case shall be so re-heard accordingly.

(2) Where, in any such investigation, a decision has been given with respect to the cancelling or suspension of the certificate of a master, mate, or engineer, and an application for a re-hearing under this section has not been made or has been refused, an appeal shall lie from the decision to the following courts; namely,

(*a*) if the decision is given in England or by a naval court, the Probate, Divorce, and Admiralty division of Her Majesty's High Court of Justice:

(*b*) if the decision is given in Scotland, either division of the Court of Session:

(*c*) if the decision is given in Ireland, the High Court of Admiralty, or the judge or division of Her Majesty's High Court of Justice exercising jurisdiction in admiralty cases.

39 & 40 Vic., c. 80.

(3) Any re-hearing or appeal under this section shall be subject to and conducted in accordance with such conditions and regulations as may from time to time be prescribed by general rules made under section thirty of the

Merchant Shipping Act, 1876.—[Shipping Casualties Investigations Act, 1879, 42 & 43 Vic., c. 72, s. 2.]

Inquiries into Wrecks.

438*b*. (1.) The list of persons approved as assessors for the purpose of formal investigations into shipping casualties shall be in force for three years only, but persons entered in any such list may be approved for any subsequent list. The list of those persons in force at the passing of this Act shall continue in force until the end of the year one thousand eight hundred and eighty, but nothing in this section shall affect the power of the Secretary of State to withdraw his approval of any name on any such list or to approve of any additional name.

Rules as to investigations into shipping casualties and misconduct of officers.

(2) The assessor or assessors for each such investigation shall, instead of being appointed by the commissioner, justices, or other authority holding the investigation, be appointed in such manner and according to such regulations as may be from time to time prescribed by general rules made under section thirty of the Merchant Shipping Act, 1876.

(3) Where any such investigation involves or appears likely to involve any question as to the cancelling or suspension of the certificate of a master, mate, or engineer, it shall be held with the assistance of not less than two assessors having experience in the merchant service.

(4) A master, mate, or engineer shall not be required to deliver his certificate under section four hundred and thirty-eight of the Merchant Shipping Act, 1854, or section twenty-four of the Merchant Shipping Act, 1862, unless the certificate is suspended or cancelled, and the words "or is to be" in the latter of these sections are hereby repealed.

(5) Investigation into shipping casualties shall be held in some town-hall, assize, or county court, public building, or in some suitable place to be determined according to general rules made for the purpose by the Lord High Chancellor of Great Britain, and unless no other suitable place is in the opinion of the Board of Trade available, shall not be held in a court ordinarily used as a police court.—[Shipping Casualties Investigations Act, 1879, 42 & 43 Vic., c. 72, s. 3.]

Rules to be laid before Parliament.

438*c*. Any general rule made in pursuance of this Act shall be laid before both houses of Parliament within thirty days after it is made, if Parliament be then sitting, or if not, within thirty days after the commencement of the then next ensuing session.—[Shipping Casualties Investigations Act, 1879, 42 & 43 Vic., c. 72, s. 4.]

Appointment and Duties of Receivers.

Appointment and Duties of Receivers.

Board of Trade superintend all wreck, with power to appoint receivers.

439. The Board of Trade shall throughout the United Kingdom have the general superintendence of all matters relating to wreck; and it may, with the consent of the Commissioners of Her Majesty's Treasury, appoint any officer of Customs or of the coast guard, or any officer of Inland Revenue, or, when it appears to such Board to be more convenient, any other person, to be a receiver of wreck in any district, and to perform such duties as are hereinafter mentioned, and shall give due notice of every such appointment.

Appointment and Duties of Receivers.

"Wreck" defined.

439*a*. In this chapter,[1] "wreck" includes the following when found in the sea or any tidal water or on the shores thereof (that is to say)—

goods which have been cast into the sea and then sink and remain under water;

goods which have been cast or fall into the sea and remain floating on the surface;

goods which are sunk in the sea, but are attached to a floating object, in order that they may be found again;

goods which are thrown away or abandoned, and a vessel abandoned without hope or intention of recovery.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 71.]

Appointment of receivers.

439*b*. The Local Government may, from time to time, by notification in the official Gazette, with the previous sanction of the Governor General in Council, appoint such persons as it thinks fit to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned, within such local limits as it may from time to time prescribe.

Persons so appointed shall be called receivers of wreck.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 73.]

Commissioners may be appointed receivers of wreck.

439*c*. The commissioners shall, if and when appointed, under the provisions of section 73 of the Indian Merchant Shipping Act, 1880, to be receivers of wreck within the limits of their jurisdiction, exercise within such limits all the functions of a receiver of wreck under the said Act.—[Calcutta Port Improvement Act, 1870—Ben: Act V of 1870, s. 100A.][2]

Admiral not to interfere with wreck.

440. No admiral, vice-admiral, or other person, under whatever denomination, exercising admiralty jurisdiction, shall as such, by himself or his agents, receive, take, or interfere with any wreck, except as hereinafter mentioned.

Duty of receiver when any ship is stranded or in distress.

441. Whenever any ship or boat is stranded or in distress at any place on the shore of the sea or of any tidal water within the limits of the United Kingdom, the receiver of the district within which such place is situate shall upon being made acquainted with such accident forthwith proceed to such place, and upon his arrival there he shall take the command of all persons present, and assign such duties to each person and issue such directions as he may think fit, with a view to the preservation of such ship or boat, and the lives of the persons belonging thereto, and the cargo and apparel thereof, and if any person wilfully disobeys such directions, he shall forfeit a sum not exceeding fifty pounds; but it shall not be lawful for such receiver to interfere between the master of such ship or boat and his crew in matters relating to the management thereof, unless he is requested so to do by such master.

[1] Chapter V containing ss. 71 to 79 (439*a*, and footnote, 439*b*, 450*a*, 450*c*, 452*a*, 453*a*, 453*b* 505). Chapter V of Indian Ports Act, 1875, and s. 5 of Act XIII of 1878 are hereby repealed. But nothing in Chapter V shall be deemed to affect s. 40 (328*1q*) of the Indian Ports Act, 1875, or entitle any person to salvage in respect of any property recorded by creeping or sweeping in contravention of that section. Act VII of 1880, s. 72.

[2] See Bengal Act I of 1881, s. 6.

Under s. 30 of Act IV of 1871 the Coroner's jurisdiction over treasure trove and wrecks has ceased.

442. The receiver may, with a view to such preservation as aforesaid of the ship or boat, persons, cargo, and apparel, do the following things (that is to say)—

(1) summon such number of men as he thinks necessary to assist him;

(2) Require the master or other person having the charge of any ship or boat near at hand to give such aid with his men, ship, or boats as may be in his power;

(3) Demand the use of any wagon, cart, or horses that may be near at hand:

And any person refusing without reasonable cause to comply with any summons, requisition, or demand so made as aforesaid shall for every such refusal incur a penalty not exceeding one hundred pounds; but no person shall be liable to pay any duty of assessed taxes in respect of any such wagon, cart, or horses by reason of the user of the same under this section.

443. All cargo and other articles belonging to such ship or boat as aforesaid, that may be washed on shore, or otherwise be lost or taken from such ship or boat, shall be delivered to the receiver; and any person, whether he is the owner or not, who secretes or keeps possession of any such cargo or article, or refuses to deliver the same to the receiver, or to any person authorised by him to demand the same, shall incur a penalty not exceeding one hundred pounds: and it shall be lawful for such receiver or other person as aforesaid to take such cargo or article by force from the person so refusing to deliver the same.

444. Whenever any such accident as aforesaid occurs to any ship or boat, and any person plunders, creates disorder, or obstructs the preservation of such ship, boat, lives, or cargo as aforesaid, it shall be lawful for the receiver to cause such person to be apprehended, and to use force for the suppression of any such plundering, disorder, or obstruction as aforesaid, with power to command all Her Majesty's subjects to assist him in the use of such force; and if any person is killed, maimed, or hurt by reason of his resisting the receiver in the execution of the duties hereby committed to him, or any person acting under his orders, such receiver or other person shall be free and fully indemnified, as well against the Queen's Majesty, her heirs and successors, as against all persons so killed, maimed, or hurt.

445. During the absence of the receiver from the place where any such accident as aforesaid occurs, or in places where no receiver has been appointed under this Act, the following officers, in succession, each in the absence of the other, in the order in which they are named, that is to say, any principal officer of customs or of the Coast guard, or officer of Inland Revenue, and also any sheriff, justice of the peace, commissioned officer on full pay in the Naval Service of Her Majesty, or commissioned officer on full pay in the Military Service of Her Majesty, may do all matters and things hereby authorised to be done by the receiver, with this exception, that with respect to any goods or articles belonging to any such ship or boat, the delivery up

Appointment and Duties of Receivers.

of which to the receiver is hereinbefore required, any officer so acting shall be considered as the agent of the receiver, and shall place the same in the custody of the receiver; and no person so acting as substitute for any receiver shall be entitled to any fees payable to receivers, or be deprived by reason of his so acting of any right to salvage to which he would otherwise be entitled.

Power in case of wreck being in danger to pass over adjoining lands with carriages.

446. Whenever any such accident as aforesaid occurs to any ship or boat, all persons may for the purpose of rendering assistance to such ship or boat, or saving the lives of the persons on board the same, or the cargo or apparel thereof, unless there is some public road equally convenient, pass and repass either with or without carriages or horses over any adjoining lands, without being subject to interruption by the owner or occupier, so that they do as little damage as possible, and may also, on the like condition, deposit on such lands any cargo or other article recovered from such ship or boat; and all damage that may be sustained by any owner or occupier in consequence of any such passing or repassing or deposit as aforesaid shall be a charge on the ship, boat, cargo, or articles in respect of or by which such damage was occasioned, and shall, in default of payment, be recoverable in the same manner as salvage is hereby made recoverable; and the amount payable in respect thereof, if disputed, shall be determined in the same manner as the amount of salvage is hereby in case of dispute directed to be determined.

Penalty on owners and occupiers of land refusing to allow carriages to pass over their land.

447. If the owner or occupier of any land over which any person is hereby authorised to pass or repass for any of the purposes hereinbefore mentioned does any of the following things (that is to say)—

(1) Impedes or hinders any such person from so passing or repassing, with or without carriages, horses, and servants, by locking his gates, refusing, upon request, to open the same, or otherwise however;

(2) Impedes or hinders the deposit of any cargo or other article recovered from any such ship or boat, as hereinbefore mentioned;

(3) Prevents such cargo or other article from remaining so deposited for a reasonable time, until the same can be removed to a safe place of public deposit:

He shall for every such offence incur a penalty not exceeding one hundred pounds.

Power of receiver to examine persons belonging to ships in distress.

448. Any receiver, or in his absence any justice of the peace, shall, as soon as conveniently may be, examine upon oath (which oath they are hereby respectively empowered to administer) any person belonging to any ship which may be or may have been in distress on the coasts of the United Kingdom, or any other person who may be able to give any account thereof or of the cargo or stores thereof, as to the following matters (that is to say)—

(1) The name and description of the ship;

(2) The name of the master and of the owners;

(3) The names of the owners of the cargo;

(4) The ports or places from and to which the ship was bound;

(5) The occasion of the distress of the ship;

(6) The services rendered;

(7) Such other matters or circumstances relating to such ship, or to the cargo on board the same, as the receiver or justice thinks necessary:

And such receiver or justice shall take the examination down in writing, and shall make two copies of the same, of which he shall send one to the Board of Trade, and the other to the Secretary of the Committee for managing the Affairs of Lloyd's in London, and such last-mentioned copy shall be placed by the said Secretary in some conspicuous situation, for the inspection of persons desirous of examining the same; and for the purposes of such examination every such receiver or justice as aforesaid shall have all the powers given by the first part of this Act to inspectors appointed by the Board of Trade.

Appointment and Duties of Receivers.

448a. A wreck commissioner may, at the request of the Board of Trade, by himself, or by some deputy approved by the Board of Trade, institute the same examination as a receiver of wreck under section four hundred and forty-eight of the Merchant Shipping Act, 1854, and shall for that purpose have the powers by that section conferred on a receiver of wreck.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 31.]

Powers of wreck commissioner to institute examination with respect to ships in distress under 17 & 18 Vic., c. 104, s. 443.

449. *Any examination so taken in writing as aforesaid, or a copy thereof, purporting to be certified under the hand of the receiver or justice before whom such examination was taken, shall be admitted in evidence in any court of justice, or before any person having by law or consent of parties authority to hear, receive, and examine evidence as prima facie proof of all matters contained in such written examination.*—[Repealed by Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 45.]

Original or certified copy of examination to be prima facie evidence.

Rules as to Persons Finding Wrecks.

Rules as to Persons Finding Wrecks.

450. The following rules shall be observed by any person finding or taking possession of wreck within the United Kingdom (that is to say)—

Rules to be observed by Persons finding wreck.

(1) If the person so finding or taking possession of the same is the owner, he shall as soon as possible give notice to the receiver of the district within which such wreck is found, stating that he has so found or taken possession of the same; and he shall describe in such notice the marks by which such wreck is distinguished:

(2) If any person not being the owner finds or takes possession of any wreck, he shall as soon as possible deliver the same to such receiver as aforesaid:

And any person making default in obeying the provisions of this section shall incur the following penalties (that is to say)—

(3) If he is the owner, and makes default in performing the several things the performance of which is hereby imposed on an owner,

He shall incur a penalty not exceeding one hundred pounds:

(4) If he is not the owner, and makes default in performing the several things the performance of which is hereby imposed on any person not being an owner,

He shall forfeit all claim to salvage;

[a] See The Henry Coxon. L. R. 3 P. D. 156.

He shall pay to the owner of such wreck, if the same is claimed, but if the same is unclaimed, then to the person entitled to such unclaimed wreck, double the value of such wreck (such value to be recovered in the same way as a penalty of like amount); and

He shall incur a penalty not exceeding one hundred pounds.

450*a*. Any person finding and taking possession of any wreck within any local limits for which a receiver of wreck has been so appointed, shall as soon as practicable—

(*a*) if he be the owner thereof, give the receiver of wreck notice in writing of the finding thereof and of the marks by which such wreck is distinguished;

(*b*) if he be not the owner of such wreck, deliver the same to the receiver of wreck,—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 74.]

450*b*. Any person omitting to give notice of the finding of, or to deliver, any wreck to the receiver of wreck as required by section seventy-four shall be punished with fine which may extend to one thousand rupees, and in the case of *omission* to deliver any wreck, shall, in addition to such fine, forfeit all claim to salvage, and pay to the owner of such wreck if the same is claimed, or if the same is unclaimed to the Government, a penalty not exceeding twice the value of such wreck.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 79.]

450*c*. Whenever any wreck is found by the receiver of wreck or has been delivered to him in accordance with the provisions of section seventy-four by any person, not being the owner thereof, the Government or such other person so delivering such wreck, as the case may be, shall be entitled to receive a reasonable sum for salvage, having regard to all the circumstances of the case.

Any dispute arising concerning the amount due under this section shall be determined by a magistrate, upon application to him for that purpose by either of the disputing parties.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 75.]

451. If any receiver suspects or receives information that any wreck is secreted or in the possession of some person who is not the owner thereof, or otherwise improperly dealt with, he may apply to any justice of the peace for a warrant, and such justice shall have power to grant a warrant, by virtue whereof it shall be lawful for the receiver to enter into any house or other place, wherever situate, and also into any ship or boat, and to search for, and to seize and detain, any such wreck as aforesaid there found; and if any such seizure is made in consequence of information that may have been given by any person to the receiver, the informer shall be entitled by way of salvage to such sum, not exceeding in any case five pounds, as the receiver may allow.

452. Every receiver shall within forty-eight hours after taking possession of any wreck cause to be posted up in the custom-house of the port nearest to the place where such wreck was found or seized a description of the same;

and of any marks by which it is distinguished, and shall also, if the value of such wreck exceeds twenty pounds, but not otherwise, transmit a similar description to the Secretary of the Committee of Lloyd's aforesaid; and such Secretary shall post up the description so sent, or a copy thereof, in some conspicuous place, for the inspection of all persons desirous of examining the same.

Rules as to Persons Finding Wrecks.

452*a*. The receiver of wreck shall, on taking possession of any wreck, publish a notification, in such manner and at such place as the Local Government may from time to time prescribe in this behalf, containing a description of the same and the time at which and the place where the same was found.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 76.]

Notice to be given by receiver.

453. In cases where any wreck in the custody of any receiver is under the value of five pounds, or is of so perishable a nature or so much damaged that the same cannot, in his opinion, be advantageously kept, or if the value thereof is not sufficient to defray the charge of warehousing, the receiver may sell the same before the expiration of the period hereinafter mentioned, and the money raised by such sale, after defraying the expenses thereof, shall be held by the receiver for the same purposes and subject to the same claims for and to which the article sold would have been held and liable if it had remained unsold.

Goods deemed perishable or of small value may be sold immediately.

453*a*. If after the publication of such notification the wreck is unclaimed, or if the person claiming the same fails to pay the amount due for salvage and for charges incurred by the receiver of wreck in respect thereof,

Wreck may in certain cases be sold.

the receiver of wreck may sell such wreck by public auction, if of a perishable nature, forthwith, and if not of a perishable nature, at any period not less than six months after such notification as aforesaid.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 77.]

453*b*. On the realisation of the proceeds of such sale, the amount due for salvage and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the balance shall be paid to the owner of the wreck, or, if no such person appear and claim the same, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

Proceeds how applied.

Provided that he makes his claim within one year from the date of the sale.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 78.]

454. In cases where any admiral, vice-admiral, lord of the manor, or other person is entitled for his own use to unclaimed wreck found on any place situate within a district for which a receiver is appointed, such admiral, vice-admiral, lord of the manor, or other person shall deliver to such receiver a statement containing the particulars of his title, and the address to which notices are to be sent; and upon such statement being so delivered, and proof made to the satisfaction of the receiver of the validity of such title, it shall be his duty, whenever he takes possession of any wreck found at any such place, to send within forty-eight hours thereafter a description of the same, and of any marks by which it is distinguished, directed to such address as aforesaid.

In cases where any lord of the manor or other person is entitled to unclaimed wreck, receiver to give notice to him.

Fees of Receivers of Shipwrecks.

Expenses to be paid to receiver.

455. There shall be paid to all receivers appointed under this Act the expenses properly incurred by them in the performance of their duties, and also in respect of the several matters specified in the table marked V in the schedule hereto, such fees, not exceeding the amounts therein mentioned, as may from time to time be directed by the Board of Trade; and the receiver shall have the same lien and be entitled to the same remedies for the recovery of such expenses and fees as a salvor has or is entitled to in respect of salvage due to him; but, save as aforesaid, no receiver appointed under this Act shall, as such, be entitled to any remuneration whatsoever.

TABLE V. (See Section 455.)

Fees and Remuneration of Receivers.

	£	s.	d.
For every examination on oath instituted by a receiver with respect to any ship or boat which may be or may have been in distress, a fee not exceeding	1	0	0
But so that in no case shall a larger fee than two pounds be charged for examinations taken in respect of the same ship and the same occurrence, whatever may be the number of the deponents.			
For every report required to be sent by the receiver to the Secretary of the Committee for managing the Affairs of Lloyd's in London, the sum of	0	10	0
For wreck taken by the receiver into his custody, a percentage of five per cent. upon the value thereof,			
But so that in no case shall the whole amount of percentage so payable exceed twenty pounds.			

In cases where any services are rendered by a receiver in respect of any ship or boat in distress, not being wreck, or in respect of the cargo or other articles belonging thereto, the following fees instead of a percentage (that is to say)—

If such ship or boat with her cargo equals or exceeds in value six hundred pounds, the sum of two pounds for the first, and the sum of one pound for every subsequent day during which the receiver is employed on such service; but if such ship or boat with her cargo is less in value than six hundred pounds, one moiety of the above-mentioned sum.

Remuneration for services of coast-guard.

455*a*. In cases where services are rendered by officers or men of the coast-guard service in watching or protecting shipwrecked property, then, unless it is shown that such services have been declined by the owner of such property or his agent at the time they were tendered, or that salvage has been claimed and awarded for such services, the owner of the shipwrecked property shall pay in respect of the said services remuneration according to a scale to be fixed by the Board of Trade, so, however, that such scale shall not exceed any scale by which payment to officers and men of the coast-guard for extra duties in the ordinary service of the Commissioners of Customs is for the time being regulated; and such remuneration shall be recoverable by the same means, and shall be paid to the same persons, and accounted for and applied in the same manner as fees received by receivers appointed under the Merchant Shipping Act, 1854.—[Merchant Shipping Act Amendment Act, 1855, 18 & 19 Vic., c. 91, s. 20.]

As to salvage on pirate vessels, see s. 543r.

Rules as to Receivers Trading Vessels.

456. Whenever any dispute arises in any part of the United Kingdom as to the amount payable to any receiver in respect of expenses or fees, such dispute shall be determined by the Board of Trade, whose decision shall be final.

Disputes as to sums payable to receivers to be determined by Board of Trade.

457. All fees received by any receiver appointed under this Act in respect of any services performed by him as receiver shall be carried to and form part of the Mercantile Marine Fund, and a separate account thereof shall be kept, and the monies arising therefrom shall be applied in defraying any expenses duly incurred in carrying into effect the purposes of the eighth part of this Act, in such manner as the Board of Trade directs.

Application of fees.

Salvage in the United Kingdom.

Salvage in the United Kingdom.

458. In the following cases (that is to say)—

Salvage in respect of services rendered in the United Kingdom.

Whenever any ship or boat is stranded or otherwise in distress on the shore of any sea or tidal water situate within the limits of the United Kingdom, and services are rendered by any person,

(1) In assisting such ship or boat;

(2) In saving the lives of the persons belonging to such ship or boat;

(3) In saving the cargo or apparel of such ship or boat, or any portion thereof;

And whenever any wreck is saved by any person other than a receiver within the United Kingdom;

There shall be payable by the owners of such ship or boat, cargo, apparel, or wreck, to the person by whom such services or any of them are rendered, or by whom such wreck is saved, a reasonable amount of salvage, together with all expenses properly incurred by him in the performances of such services or the saving of such wreck, the amount of such salvage and expenses (which expenses are hereinafter included under the term salvage) to be determined, in case of dispute, in manner hereinafter mentioned.

Provisions concerning salvage of life may, with the consent of any foreign country, be applied to its ships on the high seas.

458*a*. Whenever it is made to appear to Her Majesty that the government of any foreign country is willing that salvage shall be awarded by British courts for services rendered in saving life from any ship belonging to such country when such ship is beyond the limits of British jurisdiction, Her Majesty may, by Order in Council, direct that the provisions of the principal Act and of this Act, with respect to salvage for services rendered in saving life from British ships, shall in all British courts be held to apply to services rendered in saving life from the ships of such foreign country, whether such services are rendered within British jurisdiction or not.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 59.]

Salvage for life may be paid by Board.

459. Salvage in respect of the preservation of the life or lives of any person or persons belonging to any such ship or boat as aforesaid shall be pay-

Salvage to be a lien on ship, &c.

Salvage due in respect of life to be paid out of Mercantile Marine Fund.

able by the owners of the ship or boat to priority to all other claims for salvage; and in cases where such ship or boat is destroyed, or where the value thereof is insufficient, after payment of the actual expenses incurred, to pay the amount of salvage due in respect of any life or lives, the Board of Trade may in its discretion award to the salvors of such life or lives out of the Mercantile Marine Fund such sum or sums as it deems fit, in whole or part satisfaction of any amount of salvage so left unpaid in respect of such life or lives.

Disputes as to salvage how to be settled.

460. Disputes with respect to salvage arising within the boundaries of the Cinque Ports shall be determined in the manner in which the same have hitherto been determined; but whenever any dispute arises elsewhere in the United Kingdom between the owners of any such ship, boat, cargo, apparel, or wreck as aforesaid, and the salvors, as to the amount of salvage, and the parties to the dispute cannot agree as to the settlement thereof by arbitration or otherwise,

Then, if the sum claimed does not exceed two hundred pounds,

Such dispute shall be referred to the arbitration of any two justices of the peace resident as follows (that is to say)—

In case of wreck, resident at or near the place where such wreck is found;

In case of services rendered to any ship or boat, or to the persons, cargo, or apparel belonging thereto, resident at or near the place where such ship or boat is lying, or at or near the first port or place in the United Kingdom into which such ship or boat is brought after the occurrence of the accident by reason whereof the claim to salvage arises:

But if the sum claimed exceeds two hundred pounds,

Such dispute may, with the consent of the parties, be referred to the arbitration of such justices as aforesaid, but if they do not consent, shall in England be decided by the High Court of Admiralty of England, in Ireland by the High Court of Admiralty of Ireland, and in Scotland by the Court of Session; subject to this proviso, that if the claimants in such dispute do not recover in such Court of Admiralty or Court of Session a greater sum than two hundred pounds, they shall not, unless the court certifies that the case is a fit one to be tried in a superior court, recover any costs, charges, or expenses incurred by them in the prosecution of their claim:

And every dispute with respect to salvage may be heard and adjudicated upon on the application either of the salvor or of the owner of the property salved, or of their respective agents.

Receiver of wreck may appoint a valuer, &c., in salvage cases.

460*a*. Whenever any salvage question arises, the receiver of wreck for the district may, upon application from either of the parties, appoint a valuer to value the property in respect of which the salvage claim is made, and shall, when the valuation has been returned to him, give a copy of the valuation to

both parties; and any copy of such valuation, purporting to be signed by the valuer, and to be attested by the receiver, shall be received in evidence in any subsequent proceeding; and there shall be paid in respect of such valuation, by the party applying for the same, such fee as the Board of Trade may direct.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 50.]

Salvage in the United Kingdom.

461. Whenever in pursuance of this Act any dispute as to salvage is referred to the arbitration of two justices, they may either themselves determine the same, with power to call to their assistance any person conversant with maritime affairs as assessor, or they may, if a difference of opinion arises between them, or without such difference, if they think fit, appoint some person conversant with maritime affairs as umpire to decide the point in dispute; and such justices or their umpire shall make an award as to the amount of salvage payable within the following times, that is to say, the said justices within forty-eight hours after such dispute has been referred to them, and the said umpire within forty-eight hours after his appointment, with power nevertheless for such justices or umpire by writing under their or his hands or hand to extend the time within which they and he are hereby respectively directed to make their or his award.

Manner in which justices may decide disputes.

461a. The provisions contained in the eighth part of the principal Act for giving summary jurisdiction to two justices in salvage cases, and for preventing unnecessary appeals and litigation in such cases, shall be amended as follows (that is to say)—

Extension and amendment of principal Act as to summary jurisdiction in small salvage cases.

(1) Such provision shall extend to all cases in which the value of the property saved does not exceed one thousand pounds, as well as to the cases provided for by the principal Act:

(2) Such provisions shall be held to apply whether the salvage service has been rendered within the limits of the United Kingdom or not:

(3) It shall be lawful for one of Her Majesty's Principal Secretaries of State, or in Ireland for the Lord Lieutenant or other Chief Governor or Governors, to appoint out of the justices for any borough or county a rota of justices by whom jurisdiction in salvage cases shall be exercised:

(4) When no such rota is appointed, it shall be lawful for the salvors, by writing addressed to the justice's clerk, to name one justice, and for the owner of the property saved in like manner to name the other:

(5) If either party fails to name a justice within a reasonable time the case may be tried by two or more justices at petty sessions:

(6) It shall be competent for any stipendiary magistrate, and also in England for any county court judge, in Scotland for the sheriff or sheriff substitute of any county, and in Ireland for the recorder of any borough in which there is a recorder, or for the chairman of quarter sessions in any county, to exercise the same jurisdiction in salvage cases as is given to two justices:

Salvage in the Justices' Kingdom.

(7) It shall be lawful for one of Her Majesty's Principal Secretaries of State to determine a scale of costs to be awarded in salvage cases by any such justices or court as aforesaid:

(8) All the provisions of the principal Act relating to summary proceedings in salvage cases, and to the prevention of unnecessary appeals in such cases, shall, except so far as the same are altered by this Act, extend and apply to all such proceedings, whether under the principal Act or this Act, or both of such Acts.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 49.]

Costs of arbitration.

462. There shall be paid to every assessor and umpire who may be so appointed as aforesaid in respect of his services such sum not exceeding five pounds as the Board of Trade may from time to time direct; and all the costs of such arbitration, including any such payments as aforesaid, shall be paid by the parties to the dispute, in such manner and in such shares and proportions of the said justices or as the said umpire may direct by their or his award.

Justices may call for production of documents and examine witnesses.

463. The said justices or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Appeal to courts of Admiralty.

464. If any person is aggrieved by the award made by such justices or such umpire as aforesaid, he may in England appeal to the High Court of Admiralty of England, in Ireland to the High Court of Admiralty of Ireland, and in Scotland to the Court of Session; but no such appeal shall be allowed unless the sum in dispute exceeds fifty pounds, nor unless within ten days after the date of the award the appellant gives notice to the justices to whom the matter was referred of his intention to appeal, nor unless the appellant proceeds to take out a monition, or to take such other proceeding as according to the practice of the court of appeal is necessary for the institution of an appeal, within twenty days from the date of the award.

Justices to transmit copy of proceedings and certificate of value to court of appeal.

465. Whenever any appeal is made in manner hereinbefore provided, the justices shall transmit to the proper officer of the court of appeal a copy on unstamped paper, certified under their hands to be a true copy, of the proceedings had before such justices or their umpire, if any, and of the award so made by them or him, accompanied with their or his certificate in writing of the gross value of the article respecting which salvage is claimed; and such copy and certificate shall be admitted in the court of appeal as evidence in the cause.

Payment of salvage to whom to be made in case of dispute as to apportionment.

466. Whenever the aggregate amount of salvage payable in respect of salvage services rendered in the United Kingdom has been finally ascertained, either by agreement or by the award of such justices or their umpire, but a dispute arises as to the apportionment thereof amongst several claimants, then, if the amount does not exceed two hundred pounds, it shall be lawful for the party liable to pay the amount so due to apply to the receiver of the district

for liberty to pay the amount so ascertained to him; and he shall, if he thinks fit, receive the same accordingly, and grant a certificate under his hand, stating the fact of such payment, and the services in respect of which it is made; and such certificate shall be a full discharge and indemnity to the person or persons to whom it is given, and to their ship, boats, cargo, apparel, and effects, against the claims of all persons whomsoever in respect of the services therein mentioned; but if the amount exceeds two hundred pounds, it shall be apportioned in manner hereinafter mentioned.

467. Upon the receipt of any such amount as aforesaid the receiver shall with all convenient speed proceed to distribute the same among the several persons entitled thereto, upon such evidence and in such shares and proportions as he thinks fit, with power to retain any moneys that may appear to him to be payable to any absent parties; but any distribution made in pursuance of this section shall be final and conclusive against the rights of all persons claiming to be entitled to any portion of the moneys so distributed.

468. Whenever any salvage is due to any person under this Act, the receiver shall act as follows (that is to say)—

(1) If the same is due in respect of services rendered in assisting any ship or boat, or in saving the lives of persons belonging to the same, or the cargo or apparel thereof,

He shall detain such ship or boat and the cargo and apparel belonging thereto until payment is made, or process has been issued by some competent court for the detention of such ship, boat, cargo, or apparel:

(2) If the same is due in respect of the saving of any wreck, and such wreck is not sold as unclaimed in pursuance of the provisions hereinafter contained,

He shall detain such wreck until payment is made, or process has been issued in manner aforesaid:

But it shall be lawful for the receiver, if at any time previously to the issue of such process security is given to his satisfaction for the amount of salvage due, to release from his custody any ship, boat, cargo, apparel, or wreck so detained by him as aforesaid; and in cases where the claim for salvage exceeds two hundred pounds, it shall be lawful in England for the High Court of Admiralty of England, in Ireland for the High Court of Admiralty of Ireland, and in Scotland for the Court of Session, to determine any question that may arise concerning the amount of the security to be given or sufficiency of the sureties; and in all cases where bond or other security is given to the receiver for an amount exceeding two hundred pounds, it shall be lawful for the salvor, or for the owner of the property salved, or their respective agents, to institute proceedings in such last-mentioned courts for the purpose of having the questions arising between them adjudicated upon, and the said courts may enforce payment of the said bond or other security, in the same manner as if bail had been given in the said courts.

Proceeds of wreck to the United Kingdom.

each case or by any general rule determine, pay the same into the receipt of Her Majesty's Exchequer in such manner as the Treasury may direct, and the same shall be carried to and form part of the Consolidated Fund of the United Kingdom.

Proceeds of wreck to be paid to Her Majesty, her heirs and successors, 17 & 18 Vic., c. 104, s. 475.

475*a*. Whereas by the principal Act it is provided that the proceeds of wreck, if the same is not claimed by the owner within a year, and if no person other than Her Majesty, her heirs and successors, is proved to be entitled thereto, shall, subject to certain deductions, be paid into the receipt of Her Majesty's Exchequer in such manner as the Commissioners of the Treasury may direct, and that the same shall be carried to and form part of the Consolidated Fund of the United Kingdom:

And whereas doubts have been entertained whether the said last-recited provision is consistent with the arrangements concerning the hereditary revenues of the Crown effected by the Act of the first year of Her present Majesty, chapter two: And whereas doubts have also been entertained whether due provision is made by the said Act for paying to the revenues of the Duchies of Lancaster and Cornwall respectively such of the said proceeds as may belong to those Duchies:

Application of proceeds of wreck belonging to the Crown.

It is hereby declared that such of the said proceeds of wreck as belong to Her Majesty in right of her Crown shall, during the life of Her present Majesty (whom God long preserve), be carried to and form part of the Consolidated Fund of the United Kingdom, and shall after the decease of Her resent Majesty (whom God long preserve), be payable and paid to Her Majesty's heirs and successors:

And it is hereby further declared that such of the said proceeds of wreck as belong to Her Majesty in right of her Duchy of Lancaster shall be paid to the Receiver General of the said Duchy or his sufficient deputy or deputies as part of the revenues of the said Duchy, and be dealt with accordingly:

And it is hereby further declared and enacted that the provision in the principal Act contained regarding the sale of unclaimed wreck to which no owner establishes his claim within the period of one year, and to which no admiral, vice-admiral, lord of any manor, or person other than Her Majesty, her heirs and successors, is proved to be entitled, is intended and shall be construed to apply to wreck of the sea belonging to Her Majesty, her heirs and successors, in respect of the Duchy of Cornwall, or to the Duke of Cornwall for the time being in respect of his Duchy of Cornwall: But that the proceeds of such wreck shall, subject to such deductions as are in the same Act mentioned, form part of the revenues of the Duchy of Cornwall, and be dealt with accordingly.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 53.]

Jurisdiction of the High Court of Admiralty.

Jurisdiction of the High Court of Admiralty.

High Court of Admiralty may try all

476. Subject to the provisions of this Act, the High Court of Admiralty shall have jurisdiction to decide upon all claims whatsoever relating to salvage

whether the services in respect of which salvage is claimed were performed upon the high seas, or within the body of any county, or partly in one place and partly in the other, and whether the wreck is found at sea or cast upon the land, or partly in the sea and partly on land.

Jurisdiction of the High Court of Admiralty.

Salvage cases, whether on sea or land.

Offences in respect of Wreck.

Offences in respect of Wrecks.

477. Whenever any ship or boat is stranded or otherwise in distress on or near the shore of any sea or tidal water in the United Kingdom, and such ship or boat, or any part of the cargo or apparel thereof, is plundered, damaged, or destroyed by any persons riotously and tumultuously assembled together, whether on shore or afloat, full compensation shall be made to the owner of such ship, boat, cargo, or apparel, as follows (that is to say)—

In case of shipwrecked being plundered by a tumultuous assemblage, the hundred to be liable for damages.

In England, by the inhabitants of the hundred, wapentake, ward, or district in the nature of a hundred, by whatever name denominated, in or nearest to which the said offence is committed, in manner provided by an Act of the eighth year of the reign of King George the Fourth, chapter thirty-one, in case of the destruction of churches and other buildings by a riotous assemblage, or as near thereto as circumstances permit;

7 & 8 Geo. IV, c. 31.

In Ireland, by the inhabitants of the county, county of a city or town, barony, town or towns, parish or parishes, in or nearest to which such offence is committed, in manner provided by an Act of the fourth year of the reign of King William the Fourth, chapter thirty-seven, for the recovery of satisfaction and amends for the malicious demolition of or injury to churches, chapels, and other buildings used for religious worship according to the usage of the United Church of England and Ireland, or as near thereto as circumstances permit;

4 & 5 Will. IV, c. 37, s. 72.

In Scotland, by the inhabitants of the county, city, or borough in or nearest to which such offence is committed, in manner provided by an Act of the first year of King George the First, statute two, chapter five, with respect to prosecutions for repairing the damages of any churches and other buildings, or as near thereto as circumstances permit.

1 Geo. I, st. 2, c. 5.

478. Every person who does any of the following acts (that is to say)—

Penalty for plundering in cases of shipwreck, for obstructing the saving of shipwrecked property, and for secreting the same.

(1) Wrongfully carries away or removes any part of any ship or boat stranded or in danger of being stranded or otherwise in distress on or near the shore of any sea or tidal water, or any part of the cargo or apparel thereof, or any wreck; or

(2) Endeavours in any way to impede or hinder the saving of such ship, boat, cargo, apparel, or wreck; or

(3) Secretes any wreck, or obliterates or defaces any marks thereon;

Shall, in addition to any other penalty or punishment he may be subject to under this or any other Act or law, for each such offence incur a penalty not

Offences in respect of wreck.

exceeding fifty pounds; and every person, not being a receiver or a person hereinbefore authorised to take the command in cases of ships being stranded or in distress, or not acting under the orders of such receiver or person, who without the leave of the master endeavours to board any such ship or boat as aforesaid, shall for each offence incur a penalty not exceeding fifty pounds; and it shall be lawful for the master of such ship or boat to repel by force any such person so attempting to board the same.

Penalty for taking wreck to foreign port.

479. If any person takes into any foreign port or place any ship or boat stranded, derelict, or otherwise in distress on or near the shore of the sea or of any tidal water situate within the limits of the United Kingdom, or any part of the cargo or apparel thereof, or any thing belonging thereto, or any wreck found within such limits as aforesaid, and there sells the same, he shall be guilty of felony, and be subject to penal servitude for a term not exceeding four years.

Other Offences in respect of Ships.

Other Offences in respect of Ships.

Setting fire to or casting away, &c., a ship, to prejudice the owner or underwriters.

479*a*. Whosoever shall unlawfully and maliciously set fire to, or cast away or in anywise destroy, any ship or vessel, with intent thereby to prejudice any owner or part owner of such ship or vessel, or of any goods on board the same, or any person that has underwritten or shall underwrite any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and if a male under the age of sixteen years, with or without whipping.[1] [Destruction to Ships Act, 1861, 24 & 25 Vic., c. 97, s. 43.]

Solitary fire, or casting away or destroying a ship.

479*b*. Whosoever shall unlawfully and maliciously set fire to, cast away, or in anywise destroy, any ship or vessel, whether the same be complete or in an unfinished state, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life, or for any term not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.—[Destruction to Ships Act, 1861, 24 & 25 Vic., c. 97, s. 42.]

Principals in the second degree and accessories.

479*c*. In the case of every felony punishable under this Act, every principal in the second degree, and every accessory before the fact, shall be punishable in the same manner as the principal in the first degree is by this Act punishable; and every accessory after the fact to any felony punishable under this Act shall on conviction be liable, at the discretion of the court, to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement; and every person who shall aid, abet, counsel, or procure the commission of any misdemeanor punishable

Aiders, &c., in misdemeanors.

[1] See Reg. v. Elmstone, 5, Bom. (Crown Cases) 89, 129.

under this Act shall be liable to be proceeded against, indicted, and punished as a principal offender.—[Destruction of Ships Act, 1861, 24 & 25 Vic., c. 97, s. 56.]

479*d*. Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards intending to destroy, or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.—[Indian Penal Code—Act XLV of 1860, s. 437.]

479*e*. Whoever commits or attempts to commit by fire or any explosive substance, such mischief as is described in the last preceding section, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.—[Indian Penal Code—Act XLV of 1860, s. 438.]

479*f*. Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein, or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.—[Indian Penal Code—Act XLV of 1860, s. 439.]

479*g*. Whoever navigates any vessel in a manner so rash as to endanger human life, or to be likely to cause hurt or injury to any other person shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.—[Indian Penal Code—Act XLV of 1860, s. 280.]

479*h*. Whoever knowingly or negligently conveys or causes to be conveyed for hire any person by water in any vessel when that vessel is in such a state or so loaded as to endanger the life of that person shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.—[Indian Penal Code—Act XLV of 1860, s. 282].

479*i*. Whoever commits theft in any building, tent, or vessel, which building, tent, or vessel is used as a human dwelling, or for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.—[Indian Penal Code—Act XLV of 1860, s. 380].

As to offence relating to lights and lighthouses, see ss. 411a and 416a.

Dealers in Marine Stores and Manufacturers of Anchors.

480. Every person dealing in buying and selling anchors, cables, sails, or old junk, old iron, or marine stores of any description, shall conform to the following regulations (that is to say)—

Dealers in Marine Stores and Marine Factories and Ancres.

(1) He shall have his name, together with the words "Dealer in Marine Stores," painted distinctly in letters of not less than six inches in length on every warehouse or other place of deposit belonging to him;

If he does not, he shall incur a penalty not exceeding twenty pounds;

(2) He shall keep a book or books, fairly written, and shall enter therein an account of all such marine stores as he may from time to time become possessed of, stating, in respect of each article, the time at which and the person from whom he purchased or received the same, adding, in the case of every such last-mentioned person, a description of his business and place of abode;

If he does not, he shall incur for the first offence a penalty not exceeding twenty pounds, and for every subsequent offence a penalty not exceeding fifty pounds:

(3) He shall not by himself or his agents, purchase marine stores of any description from any person apparently under the age of sixteen years;

If he does so, he shall incur for the first offence a penalty not exceeding five pounds, and for every subsequent offence a penalty not exceeding twenty pounds:

(4) He shall not cut up any cable, or any similar article, exceeding five fathoms in length, or unlay the same into twine or paper stuff, on any prefence whatever, without obtaining such permit and publishing such notice of his having so obtained the same as is hereinafter mentioned;

If he does so, he shall incur for the first offence a penalty not exceeding twenty pounds, and for every subsequent offence a penalty not exceeding fifty pounds.

Manner of obtaining permit to cut up cables.

481. In order to obtain such permit as aforesaid, a dealer in marine stores shall make a declaration before some justice of the peace having jurisdiction over the place where such dealer resides, containing the following particulars (that is to say)—

(1) A statement of the quality and description of the cable or other like article about to be cut up or unlaid:

(2) A statement that he purchased or otherwise acquired the same *bonâ fide* and without fraud, and without any knowledge or suspicion that the same had been come by dishonestly:

(3) A statement of the name and description of the person from whom he purchased or received the same:

And it shall be lawful for the justice before whom any such declaration is made, or for the receiver of the district in which such dealer in marine stores resides, upon the production of any such declaration as aforesaid, to grant a permit authorising him to cut up or unlay such cable or other like article.

482. No dealer in marine stores who has obtained such permit as aforesaid shall proceed by virtue thereof to cut up or unlay any cable or other like article until he has for the space of one week at the least before doing any such act published in some newspaper published nearest to the place where he resides one or more advertisements notifying the fact of his having so obtained a permit, and specifying the nature of the cable or other article mentioned in the permit, and the place where the same is deposited, and the time at which the same is intended to be so cut up or unlaid; and if any person suspects or believes that such cable or other article is his property, he may apply to any justice of the peace for a warrant; and such justice of the peace may, on the applicant making oath, or, if a person entitled to make an affirmation, making an affirmation in support of such his suspicion or belief, grant a warrant by virtue whereof the applicant shall be entitled to require the production by such dealer as aforesaid of the cable or other article mentioned in the permit, and also of the book of entries hereinbefore directed to be kept by every dealer in marine stores, and upon such cable or other article and book of entries being produced, to inspect and examine the same; and if any dealer in marine stores makes default in complying with any of the provisions of this section, he shall for the first offence incur a penalty not exceeding twenty pounds, and for every subsequent offence a penalty not exceeding fifty pounds.

Dealers in Marine Stores and Manufacturers of Anchors.

Permit to be advertised before dealer proceeds to act thereon.

483. Every manufacturer of anchors shall in case of each anchor which he manufactures mark in legible characters on the crown, and also on the shank under the stock, his name or initials, with the addition of a progressive number, and the weight of such anchor; and if he makes default in doing so, he shall for each offence incur a penalty not exceeding five pounds.

Manufacturer to place marks on anchors.

Salvage by Her Majesty's Ships.

484. In cases where salvage services are rendered by any ship belonging to Her Majesty, or by the commander or crew thereof, no claim shall be made or allowed for any loss, damage, or risk thereby caused to such ship, or to the stores, tackle, or furniture thereof, or for the use of any stores or other articles belonging to Her Majesty supplied in order to effect such services, or for any other expense or loss sustained by Her Majesty by reason of such services.[1]

Salvage by H. M.'s Ships.

No claim for salvage services to be allowed in respect of loss or damage to Her Majesty's ship or property.

485. No claim whatever on account of any salvage services rendered to any ship or cargo or to any appurtenances of any ship by the commander or crew or part of the crew of any of Her Majesty's ships shall be finally adjudicated upon unless the consent of the Admiralty has first been obtained, such consent to be signified by writing under the hand of the Secretary to the Admiralty; and if any person who has originated proceedings in respect of any such claim fails to prove such consent to the satisfaction of the court, his suit shall stand dismissed, and he shall pay all the costs of such proceedings: Provided that any document purporting to give such consent, and to be

Claims for salvage by Her Majesty's ships not to be adjudicated without consent of Admiralty.

[1] See The Cybele. L. R. 3 P. D. 8.

signed by the Secretary to the Admiralty, shall be *primâ facie* evidence of such consent having been given.[7]

Steps to be taken when salvage services have been rendered by Her Majesty's ships.

486. Whenever services for which salvage is claimed are rendered to any ship or cargo, or to any part of any ship or cargo, or to any appurtenances of any ship, at any place out of the United Kingdom and the four seas adjoining thereto, by the commander or crew or part of the crew of any of Her Majesty's ships, the property alleged to be salved shall, if the salvor is justified by the circumstances of the case in detaining it at all, be taken to some port where there is either a Consular officer or a Vice-Admiralty Court; and within twenty-four hours after arriving at such port the said salvor and the master, or other person in charge of the property alleged to be salved, shall each deliver to the Consular officer or Vice-Admiralty Judge there a statement, verified on oath, specifying, so far as they respectively can, and so far as the particulars required apply to the case,

(1) The place, condition, and circumstances in which the said ship, cargo, or property was at the time when the services were rendered for which salvage is claimed:

(2) The nature and duration of the services rendered:

And the salvor shall add to his statement,

(3) The proportion of the value of the said ship, cargo, and property, and of the freight, which he claims for salvage, or the values at which he estimates the said ship, freight, cargo, and property respectively, and the several amounts that he claims for salvage in respect of the same:

(4) Any other circumstances he thinks relevant to the said claim:

And the said master or other person in charge of the said ship, cargo, or property shall add to his statement,

(5) A copy of the certificate of registry of the said ship, and of the endorsements thereon, stating any change which (to his knowledge or belief) has occurred in the particulars contained in such certificate; and stating also, to the best of his knowledge and belief, the state of the title to the ship for the time being, and of the incumbrances and certificates of mortgage or sale, if any, affecting the same, and the names and places of business of the owners and incumbrancers:

(4) The name and place of business or residence of the freighter (if any) of the said ship, and the freight to be paid for the voyage she is then on:

(5) A general account of the quantity and nature of the cargo at the time the salvage services were rendered:

(6) The name and place of business or residence of the owner of such cargo and of the consignee thereof:

(7) The values at which the said master estimates the said ship, cargo, and property, and the freight, respectively, or, if he thinks fit, in

[7] See The Cybele. L. R. 3 P. D. 8.

lieu of such estimated value of the cargo, a copy of the ship's manifest:

(8) The amounts which the master thinks should be paid as salvage for the services rendered:

(9) An accurate list of the property saved, in cases where the ship is not saved:

(10) An account of the proceeds of the sale of the said ship, cargo, or property, in cases where the same or any of them are sold at such port as aforesaid:

(11) The number, capacities, and condition of the crew of the said ship at the time the said services were rendered:

(12) Any other circumstances he thinks relevant to the matters in question:

(13) A statement of his willingness to execute a bond, in the form in the table marked W in the schedule hereto, in such amount as the said Consular officer or Vice-Admiralty Judge may fix.

TABLE W. (See Section 486.)

SALVAGE BOND.

[*N.B.—Any of the particulars not known, or not required, by reason of the claim being only against the cargo, &c., may be omitted.*]

Whereas certain salvage services are alleged to have been rendered by the ship [*insert names of ship and of commander*], commander, to the merchant ship [*insert names of ship and master*], master, belonging to [*name and place of business or residence of owner of ship*], freighted by [*the same of the freighter*], and to the cargo therein, consisting of [*state very shortly the descriptions and quantities of the goods, and the names and addresses of their owners and consignees*]:

And whereas the said ship and cargo have been brought into the port of [*insert name and situation of port*], and a statement of the salvage claim has been sent to [*insert the name of the Consular officer or Vice-Admiralty Judge, and of the office he fills*], and he has fixed the amount to be inserted in this bond at the sum of [*state the sum*]:

Now I, the said [*master's name*], do hereby, in pursuance of the Merchant Shipping Act, 1854, bind the several owners for the time being of the said ship, and of the cargo therein, and of the freight payable in respect of such cargo, and their respective heirs, executors, and administrators, to pay among them such sum, not exceeding the said sum of [*state the sum fixed*], in such proportions, and to such persons, as [*if the parties agree on any other court, substitute the name of it here*], the High Court of Admiralty in England shall adjudge to be payable as salvage for the services so alleged to have been rendered as aforesaid.

In witness whereof I have hereunto set my hand and seal, this [*insert the date*] day of.

Signed, sealed, and delivered by the said [*master's name*] L. S., in the presence of [*name of Consular officer or Vice-Admiralty Judge, and of the office he fills*].

Consular officer or Judge to fix amount for which a bond is to be given.

487. The said Consular officer or Judge, as the case may be, shall within four days after receiving the aforesaid statements fix the amount to be inserted in the said bond at such sum as he thinks sufficient to answer the demand for the salvage services rendered; but such sum shall not exceed one-half of the value which in his estimation the said ship, freight, and cargo, or any

Salvage to H. M.'s Ships.

parts thereof in respect of which salvage is claimed, are worth; and the said Consular officer or Judge may, if either of the aforesaid statements is not delivered to him within the time hereby required, proceed *ex parte*, but he shall in no case under this Act require the cargo to be unladen; and the said Consular officer may in any proceeding under this Act relating to salvage take affidavits and receive affirmations.

On master executing bond, the right of detention to cease.

488. The said Consular officer or Judge shall send notice of the sum which he has so fixed as aforesaid to the said salvor and the said master; and upon such master executing a bond in such form as aforesaid, with the said sum inserted therein, in the presence of the said officer or judge (who shall atest the same), and delivering the same to the said salvor, the right of the said salvor to detain or retain possession of the said ship, cargo, or property, or any of them, in respect of the said salvage claim, shall cease.

Provision for additional security in the case of ships owned by persons resident out of Her Majesty's dominions.

489. If the ship, cargo, or property in respect of which the claim for salvage is made is not owned by persons domiciled in Her Majesty's dominions, the right of the salvor to detain or retain possession thereof shall not cease unless the master procures, in addition to the said bond, such security for the due performance of the conditions thereof as the said officer or Judge considers sufficient for the purpose, and places the same in the possession or custody of the said officer or Judge, or, if the salvor so desires, in the possession or custody of the said officer or Judge jointly with any other person whom the said salvor appoints for the purpose.

Documents to be sent to England.

490. The said Consular officer or Judge shall at the earliest opportunity transmit the said statements and documents so sent to him as aforesaid, and a notice of the sum he has so fixed as aforesaid, to the High Court of Admiralty of England, or if the said salvor and the said master or other person in charge as aforesaid agree that the said bond shall be adjudicated upon by any Vice-Admiralty Court, to such court.

Whom the bond shall bind.

491. The said bond shall bind the respective owners of the said ship freight, and cargo, and their respective heirs, executors, and administrators, for the salvage adjudged to be payable in respect of the said ship, freight, and cargo respectively.

Court in which bond to be adjudicated on.

492. The said bond shall be adjudicated on and enforced by the High Court of Admiralty in England, or if the said salvor and master at the time of the execution of the said bond agree upon any Vice-Admiralty Court, then by such Vice-Admiralty Court; and any such Vice-Admiralty Court may in every proceeding under this Act have and exercise all powers and authorities whatsoever which the said High Court of Admiralty now has or at any time may have in any proceeding whatsoever before it; and in cases where any security for the due performance of the conditions of the said bond has been placed in the possession or custody of the said Consular officer or Vice-Admiralty Judge, or of such officer or Judge Jointly with any other person, the person or persons having the custody of such security shall respectively deal with the same in such manner as the court that adjudicates on the bond directs,

493. The said High Court of Admiralty shall have power to enforce any bond given in pursuance of this Act in any Vice-Admiralty Court in any part of Her Majesty's dominions; and all courts in Scotland, Ireland, and the Islands of Jersey, Guernsey, Alderney, Sark and Man exercising admiralty jurisdiction shall, upon application, aid and assist the High Court of Admiralty in enforcing the said bonds.

Salvage by H.M.'s Ships.

Power of High Court of Admiralty to enforce bond.

494. Any such salvor as aforesaid of any ship, cargo, or property who elects not to proceed under this Act shall have no power to detain the said ship, cargo, or property, but may proceed otherwise for the enforcement of his salvage claim as if this Act had not been passed; and nothing in this Act contained shall abridge or affect the rights of salvors, except in the cases by it provided for.

Saving clause.

495. All bonds, statements, agreements, and other documents made or executed in pursuance of the eighth part of this Act shall, if so made or executed out of the United Kingdom, be exempt from stamp duty.

Documents free from duty.

496. Every person who, in any proceeding under provisions contained in the eighth part of this Act relating to salvage by Her Majesty's ships, forges, assists in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document, and every person who in any such proceeding puts off or makes use of any such forged or altered document, knowing the same to be so forged or altered, or who in any such proceeding gives or makes, or assists in giving or making, or procures to be given or made, any false evidence or representation, knowing the same to be false, shall be punishable with imprisonment, with or without hard labour, for any period not exceeding two years, or, if summarily prosecuted and convicted, by imprisonment with or without hard labour, for any period not exceeding six months.

Punishment for forgery and false representations.

Salvage, General.

Salvage, General.

497. Whenever services for which salvage is claimed are rendered either by the commander or crew or part of the crew of any of Her Majesty's ships, or of any other ship, and the salvor voluntarily agrees to abandon his lien upon the ship, cargo, and property alleged to be salved, upon the master or other person in charge thereof entering into a written agreement, attested by two witnesses, to abide the decision of the said High Court of Admiralty or of any Vice-Admiralty Court, and thereby giving security in that behalf to such amount as may be agreed on by the parties to the said agreement, such agreement shall bind the said ship and the said cargo and the freight payable therefor respectively, and the respective owners of the said ship, freight, and cargo for the time being, and their respective heirs, executors, and administrators, for the salvage which may be adjudged to be payable in respect of the said ship, cargo, and freight respectively, to the extent of the security so given as aforesaid, and may be adjudicated upon and enforced in the same

Voluntary agreement may be made which shall have the same effect as the bond above mentioned.

Salvage, General.

manner as the bonds provided for by the eighth part of this Act in the case of detention for salvage services rendered by Her Majesty's ships; and upon such agreement being made the salvor and the master or other person in charge as aforesaid shall respectively make such statements as are hereinbefore required to be made by them in case of a bond being given, except that such statements need not be made upon oath; and the salvor shall, as soon as practicable, transmit the said agreement and the said statements to the court in which the said agreement is to be adjudicated upon.

Power for courts having admiralty jurisdiction to apportion salvage.

498. Whenever the aggregate amount of salvage payable in respect of salvage services rendered in the United Kingdom has been finally ascertained, and exceeds two hundred pounds, and whenever the aggregate amount of salvage payable in respect of salvage services rendered elsewhere has been finally ascertained, whatever such amount may be, then, if any delay or dispute arises as to the apportionment thereof, any court having admiralty jurisdiction may cause the same to be apportioned amongst the persons entitled thereto in such manner as it thinks just; and may for that purpose, if it thinks fit, appoint any person to carry such apportionment into effect, and may compel any person in whose hands or under whose control such amount may be to distribute the same, or to bring the same into court, to be there dealt with as the court may direct, and may for the purposes aforesaid issue such monitions or other processes as it thinks fit.

Miscellaneous.

Salvage, General (Signals of Distress).

Signals of distress.

498*a*. The signals specified in the first schedule to this Act shall be deemed to be signals of distress.

Any master of a vessel who uses or displays, or causes or permits any person under his authority to use or display, any of the said signals, except in the case of a vessel being in distress, shall be liable to pay compensation for any labour undertaken, risk incurred, or loss sustained in consequence of such signal having been supposed to be a signal of distress, and such compensation may, without prejudice to any other remedy, be recovered in the same manner in which salvage is recoverable.

SCHEDULE I.

SIGNALS OF DISTRESS.

In the daytime.—The following signals, numbered 1, 2, and 3, when used or displayed together or separately, shall be deemed to be signals of distress in the daytime:—

1. A gun fired at intervals of about a minute;
2. The international code signal of distress indicated by N C;
3. The distant signal, consisting of a square flag having either above or below it a ball, or anything resembling a ball.

At night—The following signals, numbered 1, 2, and 3, when used or displayed together or separately, shall be deemed to be signals of distress at night:— *Schedule, General (Signals of Distress).*

1. A gun fired at intervals of about a minute;
2. Flames on the ship (as from a burning tar barrel, oil barrel, &c.);
3. Rockets or shells, of any colour or description, fired one at a time, at short intervals.—[Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 18.]

498*b*. Her Majesty may from time to time by Order in Council repeal or alter the rules as to signals contained in the schedules to this Act, or make new rules in addition thereto or in substitution therefor, and any alteration in or addition to such rules made in the manner aforesaid shall be of the same force as the rules in the said schedules.—[Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 20.] *Power to alter rules as to signals.*

498*c*. Any ship-owner who is desirous of using, for the purposes of a private code, any rockets, lights, or other similar signals, may register such signals with the Board of Trade, and the Board shall give public notice of the signals so registered in such manner as they may think requisite for preventing such signals from being mistaken for signals for distress or signals for pilots. *Private signals.*

The Board may refuse to register any signals which in their opinion cannot easily be distinguished from signals of distress or signals for pilots.

When any signal has been so registered the use or display thereof by any person acting under the authority of the ship-owner in whose name it is registered shall not subject any person to any of the penalties or liabilities by this Act imposed upon persons using or displaying signals improperly.—[Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 21.]

498*d*. Whenever any articles belonging to or forming part of any foreign ship which has been wrecked on or near the coasts of the United Kingdom, or belonging to or forming part of the cargo thereof, are found on or near such coasts, or are brought into any port in the United Kingdom, the Consul General of the country to which such ship, or, in the case of cargo, to which the owners of such cargo, may have belonged, or any Consular officer of such country authorised in that behalf by any treaty or agreement with such country, shall, in the absence of the owner of such ship or articles, and of the master or other agent of the owner, be deemed to be the agent of the owner, so far as relates to the custody and disposal of such articles.—[Merchant Shipping Act Amendment, Act, 1855, 18 & 19, Vic., c. 91, s. 19.] *In case of wreck of foreign ship Consul General to be deemed Agent of owner.*

499. All wreck, being foreign goods brought or coming into the United Kingdom or the Isle of Man, shall be subject to the same duties as if the same were imported into the United Kingdom or the Isle of Man respectively; and if any question arises as to the origin of such goods, they shall be deemed to be the produce of such country as the Commissioner of Customs may upon investigation determine. *Foreign goods found derelict to be subject to the same duties as on importation.*

Salvage. General Signals of Distress.

Goods saved from ships wrecked to be forwarded to the ports of their original destination.

500. The Commissioners of Customs and Excise shall permit all goods, wares, and merchandise saved from any ship stranded or wrecked on its homeward voyage to be forwarded to the port of its original destination, and all goods, wares, and merchandise saved from any ship stranded or wrecked on its outward voyage to be returned to the port at which the same were shipped; but such Commissioners are to take security for the due protection of the revenue in respect of such goods, wares, and merchandise.

Provision as to certain terms in Scotland.

501. All matters and things that may in pursuance of the eighth part of this Act be done by or to any justice, or any two justices, may in Scotland be done also by or to the sheriff of the county, including the sheriff substitute; and the expression "lord or lady of a manor" shall in the eighth part of this Act, so far as regards Scotland, include "heritable proprietor duly infeft."

Capture by Ship other than a Ship of War.

Prizes taken by ships of war other than ships of war to be droits of admiralty.

501*a*. Any ship or goods taken as prize by any of the officers and crew of a ship other than a ship of war of Her Majesty shall, on condemnation, belong to Her Majesty in her office of admiralty.—[Naval Prize Act, 1864, 27 & 28 Vic., c. 25, s. 39.]

Prize Salvage.

Prize Salvage.

Salvage to re-captors of British ship or goods from enemy.

501*b*. Where any ship or goods belonging to any of Her Majesty's subjects, after being taken as prize by the enemy, is or are retaken from the enemy by any of Her Majesty's ships of war, the same shall be restored by decree of a prize court to the owner, on his paying as prize salvage one-eighth part of the value of the prize, to be decreed and ascertained by the court or such sum, not exceeding one-eighth part of the estimated value of the prize, as may be agreed on between the owner and the re-captors, and approved by order of the court: Provided that were the re-capture is made under circumstances of special difficulty or danger, the prize court may, if it thinks fit, award to the re-captors as prize salvage a larger part than one-eighth part, but not exceeding in any case one-fourth part, of the value of the prize:

Provided also that were a ship after being so taken is set forth or used by any of Her Majesty's enemies as a ship of war, this provision for restitution shall not apply, and the ship shall be adjudicated on as in other cases of prize.—[Naval Prize Act, 1864, 27 & 28 Vic., c. 25, s. 40.]

Provision as to re-captured ship to proceed on voyage, and postponement of adjudication.

501*c*. Where a ship belonging to any of Her Majesty's subjects, after being taken as prize by the enemy, is retaken from the enemy, by any of Her Majesty's ships of war, she may, with the consent of the re-captors, prosecute her voyage, and it shall not be necessary for the re-captors to proceed to adjudication till her return to a port of the United Kingdom.

The master or owner, or his agent, may, with the consent of the re-captors, unload and dispose of the goods on board the ship before adjudication.

In case the ship does not, within six months, return to a port of the United Kingdom, the re-captors may nevertheless institute proceedings against the ship or goods in the High Court of Admiralty, and the court may thereupon award prize salvage as aforesaid to the re-captors, and may enforce payment thereof, either by warrant of arrest against the ship or goods, or by monition and attachment against the owner.—[Naval Prize Act, 1864, 27 & 28 Vic., c. 25, s. 41.]

Salvage (General). Signals of Distress.

Proceedings in case return of ship is delayed.

PART IX.

LIABILITY OF SHIP-OWNERS.

Application.

Application.

Application of Part IX of Act.

502. The ninth part of this Act shall apply to the whole of Her Majesty's dominions.

Limitation of Liability.

Limitation of Liability.

Owner not liable in respect of certain articles.

503. No owner of any sea-going ship or share therein shall be liable to make good any loss or damage that may happen without his actual fault or privity of or to any of the following things (that is to say)—

(1) Of or to any goods, merchandise, or other things whatsoever taken in or put on board any such ship, by reason of any fire happening on board such ship;

(2) Of or to any golds, silver, diamonds, watches, jewels, or precious stones taken in or put on board any such ship, by reason of any robbery, embezzlement, making away with or secreting thereof, unless the owner or shipper thereof has, at the time of shipping the same, inserted in his bills of lading or otherwise declared in writing to the master or owner of such ship the true nature and value of such articles;

to any extent whatever.

Measure of owner's liability.

504. *No owner of any sea-going ship or share therein shall, in cases where all or any of the following events occur without his actual fault or privity (that is to say)—*

(1) Where any loss of life or personal injury is caused to any person being carried in such ship;

(2) Where any damage or loss is caused to any goods, merchandise, or other things whatsoever on board any such ship;

(3) Where any loss of life or personal injury is by reason of the improper navigation of such sea-going ship as aforesaid caused to any person carried in any other ship or boat;

(4) Where any loss or damage is by reason of any such improper navigation of such sea-going ship as aforesaid caused to any other ship or boat, or

Limitation of liability.

to any goods, merchandise, or other things whatsoever, on board any other ship or boat;

be answerable in damages to an extent beyond the value of his ship and the freight due or to grow due in respect of such ship during the voyage which at the time of the happening of any such events as aforesaid is in prosecution or contracted for, subject to the following proviso (that is to say) that in no case where any such liability as aforesaid is incurred in respect of loss of life or personal injury to any passenger shall the value of any such ship and the freight thereof be taken to be less than fifteen pounds per registered ton.—[Repealed by Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 2.]

Value of carriage of goods and passage money to be considered as freight.

505. *For the purposes of the ninth part of this Act, the freight shall be deemed to include the value of the carriage of any goods or merchandise belonging to the owners of the ship, passage money, and also the hire due or to grow due under or by virtue of any contract, except only such hire in the case of a ship hired for time as may not begin to be earned until the expiration of six months after such loss or damage.*—[Repealed by Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 2.]

Shipowner's liability limited.

505*a*. The owners of any ship, whether British or foreign, shall not, in cases where all or any of the following events occur without their actual fault or privity (that is to say)—

(1) Where any loss of life or personal injury is caused to any person being carried in such ship;

(2) Where any damage or loss is caused to any goods, merchandise, or other things whatsoever on board any such ship;

(3) Where any loss of life or personal injury is by reason of the improper navigation of such ship as aforesaid caused to any person carried in any other ship or boat;

(4) Where any loss or damage is by reason of the improper navigation of such ship as aforesaid caused to any other ship or boat, or to any goods, merchandise, or other things whatsoever on board any other ship or boat;

be answerable in damages in respect of loss of life or personal injury, either alone or together with loss or damage to ships, boats, goods, merchandise, or other things, to an aggregate amount exceeding fifteen pounds for each ton of their ship's tonnage; nor in respect of loss or damage to ships, goods, merchandise, or other things, whether there be in addition loss of life or personal injury or not, to an aggregate amount exceeding eight pounds for each ton of the ship's tonnage; such tonnage to be the registered tonnage in the case of sailing ships, and in the case of steam-ships the gross tonnage without deduction on account of engine-room:

In the case of any foreign ship which has been or can be measured according to British law, the tonnage as ascertained by such measurement shall, for the purposes of this section, be deemed to be the tonnage of such ship:

In the case of any foreign ship which has not been and cannot be measured under British law, the surveyor general of tonnage in the United Kingdom, and the chief measuring officer in any British possession abroad, shall, on receiving from or by direction of the court hearing the case such evidence concerning the dimensions of the ship as it may be found practicable to furnish, give a certificate under his hand, stating what would in his opinion have been the tonnage of such ship if she had been duly measured according to British law; and the tonnage so stated in such certificate shall, for the purposes of this section, be deemed to be the tonnage of such ship.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 54.] *Limitation of Liability.*

505*b*. Insurances effected against any or all of the events enumerated in the section last preceding, and occurring without such actual fault or privity as therein mentioned, shall not be invalid by reason of the nature of the risk.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 55.] *Limitation of invalidity of insurances.*

506. The owner of every sea-going ship or share therein shall be liable in respect of every such loss of life, personal injury, loss of or damage to goods as aforesaid arising on distinct occasions to the same extent as if no other loss, injury, or damage had arisen. *Provision for separate losses.*

506*a*. In any proceeding under the 506th section of the principal Act or any Act amending the same against the owner of any ship or share therein in respect of loss of life, the master's list or the duplicate list of passengers delivered to the proper officer of Customs under the 16th section of "The Passengers Act, 1855," shall, in the absence of proof to the contrary, be sufficient proof that the persons in respect of whose death any such prosecution or proceeding is instituted were passengers on board such ship at the time of their deaths.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 56.] *Proof of passengers on board lost ship.*

Mode of Procedure.

Mode of Procedure.

507. Whenever any such liability as aforesaid has been or is alleged to have been incurred in respect of loss of life or personal injury, the Board of Trade may, in its discretion, after giving not less than three days' notice by post or otherwise to the party to be made defendant or defender, by warrant sealed with the seal of such Board, or signed by one of its secretaries or assistant secretaries, require the sheriff having jurisdiction over any place in the United Kingdom to summon a jury at a time and place to be specified in such warrant for the purpose of determining the following question (that is to say)— *In case of loss of life or personal injury, Board of Trade may direct proceedings.*

The number, names, and descriptions of all persons killed or injured by reason of any wrongful act, neglect, or default;

And upon the receipt of such warrant the sheriff shall summon a jury of twenty-four indifferent persons, duly qualified to act as common jurymen in the superior courts, to meet at such time and place as aforesaid.

Mode of Procedure.

Either party may require question to be tried by a special jury.

508. If either party to the inquiry desire any such question as aforesaid to be tried before a special jury, such question shall be so tried, provided that notice of such desire, if coming from the other party, is given to the Board of Trade before it has issued its warrant to the sheriff; and for that purpose the Board of Trade shall, by its warrant to the sheriff, require him to nominate a special jury for such trial; and thereupon the sheriff shall, as soon as conveniently may be after the receipt by him of such warrant, summon both the parties to appear before him, by themselves or their attorneys or agents, at some convenient time and place appointed by him, for the purpose of nominating a special jury; and at the place and time so appointed the sheriff shall proceed to nominate and strike a special jury in the manner in which such juries are required by the laws for the time being in force to be nominated or struck by the proper officers of the superior courts; and the sheriff shall appoint a day, and shall on the day so appointed proceed to reduce the said special jury to the number of twenty, in the manner used and accustomed by the proper officers of the superior courts.

Provisions for conduct of proceedings.

509. The following provisions shall be applicable to the conduct of proceedings by the Board of Trade (that is to say):—

(1) The sheriff shall preside at such inquiry, and the Board of Trade shall be deemed in England and Ireland to be the plaintiff, and in Scotland the pursuer, both of which terms are hereinafter included in the term plaintiff, with power to appoint any agent to act on its behalf, and shall have all such rights and privileges as the plaintiff is entitled to in actions at law; and the owner or owners of the ship or ships by whom such liability as last aforesaid is alleged to have been incurred shall be deemed in England and Ireland to be the defendant, and in Scotland the defender, both of which terms are hereinafter included in the term defendant:

(2) Not less than ten days' notice of the time and place of the inquiry shall be served by the Board of Trade on the defendant:

(3) Service on the master of any ship shall be deemed good service on the owner thereof, and the master shall in respect of the proceedings on such inquiry be deemed the agent and representative of the owner, with power to appear for him on such inquiry, and to do all matters and things which he might himself have done:

(4) If the defendant does not appear at the time of such inquiry, the same shall be proceeded with as if he had appeared, upon due proof of service of notice having been made on him in pursuance of this Act:

(5) The empanelling of the jury and the summoning and attendance of witnesses shall be conducted and enforced in England and Ireland in manner provided by the Lands Clauses Consolidation Act, 1845, in cases of disputed compensation, as to land, and in Scotland in manner provided by the Lands Clauses Consolidation (Scotland) Act, 1845, in like cases, or as near thereto as circumstances permit

and all provisions in the said Acts having reference to cases where any question of disputed compensation requires to be determined by the verdict of a jury shall, with the requisite alterations, be considered as incorporated with this Act, and to have reference to cases where the question of the liability of any owner in respect of any such accident as aforesaid requires to be determined by the verdict of a jury:

Mode of Proceeding.

(6) In England and Ireland the sheriff shall, if the Board of Trade so requires, or if the defendant so requires and the Board of Trade consents thereto, appoint as assessor a barrister-at-law of competent knowledge and standing:

(7) The costs incurred by all parties in and incidental to any such inquiry as aforesaid shall in England and Ireland be taxed by the master of one of Her Majesty's superior courts of common law as between attorney and client, and in Scotland by the auditor of the court of session as between agent and client; and shall, if the verdict in any inquiry is in favour of the plaintiff, be paid by the defendant, but if such verdict is in favour of the defendant, be paid by the Board of Trade out of the mercantile marine fund:

(8) The payment of all damages and costs in any such inquiry as aforesaid shall, upon application made to such superior court as aforesaid by the party entitled thereto, be enforced by rule or order of such court or a judge thereof, or otherwise as such court or judge thinks fit:

(9) The Board of Trade may make any compromise it thinks fit as to the damages payable in respect of personal injury, or of the death of any person; and any damages received in pursuance of such compromise shall, so far as the same extend, be applied in the same manner and be subject to the same rules as if the same were damages recovered on an inquiry instituted by the Board of Trade.

Rules as to damages and application thereof.

510. The following rules shall be observed as to the damages recovered in any such inquiry, and the application thereof (that is to say)—

(1) The damages payable in each case of death or injury shall be assessed at thirty pounds:

(2) The damages found due on any such inquiry as aforesaid shall be the first charge on the aggregate amount for which the owner is liable, and shall be paid thereout in priority to all other claims:

(3) All such damages as aforesaid shall be paid to her Majesty's Paymaster General, and shall be distributed and dealt with by him in such manner as the Board of Trade directs; and in directing such distribution the Board of Trade shall have power in the first place to deduct and retain any costs incidental thereto; and in the next place, as regards the sums paid in respect of injuries, shall direct payment to each person injured of such compensation, not exceed-

Mode of Procedure.

ing in any case the statutory amount, as the said Board thinks fit; and as regards the sums paid in respect of deaths, shall direct payment thereof for the benefit of the husband, wife, parent, and child of the deceased, or any of them, in such shares, upon such evidence, and in such manner, as the said Board thinks fit:

(4) The Board of Trade shall refund to the owner any surplus remaining under its control after making such distribution as aforesaid, and the sum so refunded shall form part of the residue hereinafter mentioned:

(5) The Board of Trade shall not, nor shall any person acting under it be liable to any action, suit, account, claim, or demand whatsoever for or in respect of any act or matter done, or omitted to be done, in the distribution of such damages as aforesaid:

(6) If the amount paid to Her Majesty's Paymaster General in manner aforesaid is insufficient to meet the demands upon it, the several claims thereon shall abate proportionally.

Any person who is dissatisfied with the amount of statutory damage may bring an action on his own account.

511. After the completion of such inquiry as aforesaid, if any person injured estimates the damages payable in respect of such injury, or if the executor or administrator of any deceased person estimates the damages payable in respect of his death, at a greater sum than such statutory amount, or, in case of a compromise having been made by the Board of Trade, than the amount accepted by such Board by way of compensation for such injury or death as aforesaid, the person so estimating the same shall, upon repaying or obtaining the repayment by the Board of Trade to the owner of the amount paid by him to the Board of Trade in respect of such injury or death, be at liberty to bring an action for the recovery of damages, in the same manner as if no power of instituting an inquiry had hereinbefore been given to the Board of Trade, subject to the following proviso; that is to say, that any damages recoverable by such person shall be payable only out of the residue, if any, of the aggregate amount for which the owner is liable, after deducting all sums paid to Her Majesty's Paymaster General in manner aforesaid; and if the damages recovered in such action do not exceed double the statutory amount, such person shall pay to the defendant in such action all the costs thereof, such costs to be taxed in England and Ireland as between attorney and client, and in Scotland as between agent and client.

If Board of Trade decline to institute proceedings, individuals may or may not sue.

512. In cases where loss of life or personal injury has occurred by any accident in respect of which the owner of any such ship as aforesaid is or is alleged to be liable in damages, no person shall be entitled to bring any action or institute any suit or other legal proceeding in the United Kingdom until the completion of the inquiry (if any) instituted by the Board of Trade, or until the Board of Trade has refused to institute the same; and the Board of Trade shall for the purpose of entitling any person to bring an action or institute a suit or other legal proceeding be deemed to have refused to institute such inquiry whenever notice has been served on it by any person of his desire

to bring such action or institute such suit or other legal proceeding, and no inquiry is instituted by the Board of Trade in respect of the subject-matter of such intended action, suit, or proceeding for the space of one month after the service of such notice.

Notice of proceedings.

513. Whenever the Board of Trade, having refused in manner aforesaid to institute any inquiry, afterwards determines to institute the same, the damages and costs (if any) recovered on such inquiry shall be payable rateably with and not in priority to the costs and damages recovered in any other action, suit, or legal proceeding.

Proceedings by Board of Trade after refusal.

514. In cases where any liability has been or is alleged to have been incurred by any owner in respect of loss of life, personal injury, or loss of or damage to ships, boats or goods, and several claims are made or apprehended in respect of such liability, then, subject to the right hereinbefore given to the Board of Trade of recovering damages in the United Kingdom in respect of loss of life or personal injury, it shall be lawful in England or Ireland for the High Court of Chancery, and in Scotland for the Court of Session, and in any British possession for any competent court, to entertain proceedings at the suit of any owner for the purpose of determining the amount of such liability, subject as aforesaid, and for the distribution of such amount rateably amongst the several claimants, with power for any such court to stop all actions and suits pending in any other court in relation to the same subject-matter; and any proceeding entertained by such Court of Chancery or Court of Session, or other competent court, may be conducted in such manner, and subject to such regulations as to making any persons interested parties to the same, and as to the exclusion of any claimants who do not come in within a certain time, and as to requiring security from the owner, and as to payment of costs, as the court thinks just.

Proceedings in case of several claims being made on owner of ship.

515. All sums of money paid for or on account of any loss or damage in respect whereof the liability of the owners of any ship is limited by the ninth part of this Act, and all costs incurred in relation thereto, may be brought into account among part owners of the same ship in the same manner as money disbursed for the use thereof.

Money paid for damage how to be accounted for between part owners.

Saving Clause.

Saving Clause.

516. Nothing in the ninth part of this Act contained shall be construed—

To lessen or take away any liability to which any master or seaman, being also owner or part owner of the ship to which he belongs, is subject in his capacity of master or seaman; or

To extend to any British ship not being a recognised British ship within the meaning of this Act.[1]

Saving clause.

[1] See The Andalusian, L. R. 3 P. D. 182.

PART X.

LEGAL PROCEDURE.

Application.

Application.

Application of Part X of the Act.

517. The tenth part of this Act shall in all cases where no particular country is mentioned apply to the whole of Her Majesty's dominions.

Legal Procedure (General).

Legal Procedure (General).

Punishment of offences and recovery of penalties.

518. In all places within Her Majesty's dominions, except Scotland, the offences hereinafter mentioned shall be punished and penalties recovered in manner following (that is to say)—

(1) Every offence by this Act declared to be a misdemeanor shall be punishable by fine or imprisonment, with or without hard labour; and the court before which such offence is tried may in England make the same allowances and order payment of the same costs and expenses as if such misdemeanor had been enumerated in the Act passed in the seventh year of His late Majesty King George the Fourth, chapter sixty-four, or any other Act that may be passed for the like purpose; and may in any other part of Her Majesty's dominions make such allowances and order payment of such costs and expenses (if any) as are payable or allowable upon the trial of any misdemeanor under any existing Act or ordinance, or as may be payable or allowable under any Act or law for the time being in force therein:

7 Geo. 4, c. 64.

(2) Every offence declared by this Act to be a misdemeanor shall also be deemed to be an offence hereby made punishable by imprisonment for any period not exceeding six months, with or without hard labour, or by a penalty not exceeding one hundred pounds, and may be prosecuted accordingly in a summary manner instead of being prosecuted as a misdemeanor:

(3) Every offence hereby made punishable by imprisonment for any period not exceeding six months, with or without hard labour, or by any penalty not exceeding one hundred pounds, shall in England and Ireland be prosecuted summarily before any two or more justices, as to England in the manner directed by the Act of the eleventh and twelfth years of the reign of Her Majesty Queen Victoria, chapter forty-three, and as to Ireland in the manner directed by the Act of the fourteenth and fifteenth years of the reign of Her Majesty Queen Victoria, chapter ninety-three, or in such other manner as may be directed by any Act or Acts that may be passed for like purposes: And all provisions contained in the said Acts shall be

11 & 12 Vict., c. 43.
14 & 15 Vict., c. 93.

applicable to such prosecutions, in the same manner as if the offences in respect of which the same are instituted were hereby stated to be offences in respect of which two or more justices have power to convict summarily or to make a summary order:

Legal Procedure (General).

(4) In all cases of summary convictions in England, where the sum adjudged to be paid exceeds five pounds, or the period of imprisonment adjudged exceeds one month, any person who thinks himself aggrieved by such conviction may appeal to the next court of general or quarter sessions which is holden not less than twelve days after the day of such conviction for the county, city, borough, liberty, riding, division, or place wherein the case has been tried: Provided that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction, and seven clear days at the least before such sessions, and shall also either remain in custody until the sessions, or enter into a recognizance, with two sufficient sureties, before a justice of the peace, conditioned personally to appear at the said sessions, and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded; and upon such notice being given, and such recognizance being entered into, the justice before whom the same shall be entered into shall liberate such person, if in custody; and the court at such sessions shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the court shall seem meet; and in case of the dismissal of the appeal, or the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as may be awarded, and shall, if necessary, issue process for enforcing such judgment:

(5) All offences under this Act shall in any British possession be punishable in any court or by any justice of the peace or magistrate in which or by whom offences of a like character are ordinarily punishable, or in such other manner, or by such other courts, justices, or magistrates, as may from time to time be determined by any Act or ordinance duly made in such possession in such manner as Acts and ordinances in such possession are required to be made in order to have the force of law.

20 & 21 Vic., c. 43, s. 3, not to apply to proceedings under Board of Trade or this Act, &c., except as to payment of fees.

518*a*. Nothing in the third section of the Act passed in the twentieth and twenty-first years of the reign of Her present Majesty, chapter forty-three, except so much thereof as provides for the payment of any fees that may be due to the clerk of the justices, shall be deemed to apply to extend to any proceeding under the direction of the Board of Trade, or under or by virtue of the provisions of the principal Act or this Act, or any Act amending the

Criminal Procedure (General).

Stipendiary magistrate to have same power as two justices.

Offences where deemed to have been committed.

Accessory to felony before the fact may be tried as such, or as a substantive felony, by any court which has jurisdiction to try the principal felon, although the offence be committed on the seas or abroad.

If the offences of principal and accessory be committed in different places, accessory may be tried in any of the Kings courts in India having jurisdiction.

No person to be tried twice for the same offence.

Accessory after the fact may be tried by any court which has jurisdiction to try the principal felon.

same.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 63.]

519. Any stipendiary magistrate shall have full power to do alone whatever two justices of the peace are by this Act authorised to do.

520. For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be.

520*a*. And for the more effectual prosecution of accessories before the fact to felony, be it enacted that if any person shall counsel, procure, or command any other person to commit any felony, whether the same be a felony at common law or by virtue of any statute or statutes made or to be made; the person so counselling, procuring, or commanding shall be deemed guilty of felony, and may be indicted and convicted either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may be punished in the same manner as any accessory before the fact to the same felony, if convicted as an accessory, may be punished; and the offence of the person so counselling, procuring, or commanding, howsoever indicted, may be inquired of, tried, determined, and punished by any court which shall have jurisdiction to try the principal felon, in the same manner as if such offence had been committed at the same place as the principal felony, although such offence may have been committed either on the high seas, or at any place on land, whether within His Majesty's dominions or without; and that in case the principal felony, and the offence of counselling, procuring, or commanding, shall have been committed in different places, the last-mentioned offence may be inquired of, tried, determined, and punished in any of His Majesty's courts of justice within the British territories under the Government of the said United Company having jurisdiction to try either of the said offences: Provided always that no person who shall be once duly tried for any such offence, whether as any accessory before the fact or as for a substantive felony, shall be liable to be again indicted or tried for the same offence.—[9 Geo. IV, c. 74, s. 7.]

520*b*. And be it enacted that if any person shall become an accessory after the fact to any felony, whether the same be a felony at common law, or by virtue of any statute or statutes made or to be made, the offence of such person may be inquired of, tried, determined, and punished by any court which shall have jurisdiction to try the principal felon, in the same manner as if the act by reason whereof such person shall have become an accessory had been committed at the same place as the principal felony, although such act may have been committed either on the high seas or at any place on land, whether within His Majesty's dominions or without; and that in case the principal

* Sic in original.

Legal Procedure (continued).

If the offences of principal and accessory be committed in different places, accessory may be tried in any court having jurisdiction.

No person to be tried twice for the same offence.

felony, and the act by reason whereof any person shall have become accessory, shall have been committed in different places, the offence of such accessory may be inquired of, tried, determined, and punished in any of His Majesty's courts of justice within the British territories under the government of the said United Company, having jurisdiction to try either of the said offences: Provided always that no person who shall be once duly tried for any offence of being an accessory shall be liable to be again indicted or tried for the same offence.—[9 Geo. IV, c. 74, s. 8.]

Accessory may be prosecuted after conviction of the principal, though the principal may be pardoned or delivered before attainder.

520*c*. And be it enacted that if any principal offender shall be in any wise convicted of any felony, it shall be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attained thereof, notwithstanding such principal felon shall die or be pardoned, or otherwise delivered before attainder; and every such accessory shall suffer the same punishment, if he or she be in any wise convicted, as he should have suffered if the principal had been attainted.—[9 Geo. IV, c. 74, s. 9.]

Admiralty offences.

520*d*. And be it enacted that all offences prosecuted in any of His Majesty's courts of admiralty shall, upon every first and subsequent conviction, be subject to the same punishments, whether of death or otherwise, as if such offences had been committed upon the land.—[9 Geo. IV, c. 74, s. 25.]

Provision for the trial of murder and manslaughter where the cause of death only, but not the death, or where the death only, but not the cause of death, happens within the limits of the East India Co.'s Charter.

520*e*. And be it enacted that, where any person, being feloniously stricken, poisoned, or otherwise hurt at any place whatsoever either upon the land or at sea, within the limits of the charter of the said United Company, shall die of such stroke, poisoning, or hurt at any place within those limits, or being feloniously stricken, poisoned, or otherwise hurt at any place whatsoever, either upon land or sea, shall die of such stroke, poisoning, or hurt at any place within the limits aforesaid, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of man-slaughter, or of being accessory before or after the fact to murder or man-slaughter, may be dealt with, inquired of, tried, determined and punished by any of His Majesty's courts of justice within the British territories under the Government of the said United Company, in the same manner and in all respects as if such offence had been wholly committed within the jurisdiction of the court within the jurisdiction of which such offender shall be apprehended or in custody.—[9 Geo. IV, c. 74, s. 56.]

Offences triable where offender found.

520*f*. Every offence punishable under chapter II,* chapter III* or chapter V* may be tried in any district or presidency-town in which the offender is found.

* Chapters II, III, and V contain sections 3 to 53, 54 to 67, and 71 to 79 which answer to sections

Chapter II. 291*a*, 291*e*, 291*g*, 291*i*, 291*j*, 291*k*, 291*l*, 291*n*, 291*o*, 291 (1*c*), 291(1*b*), 291(1*c*), 291(1*d*), 291(1*f*), 291(1*g*), 291(1*h*), 291(1*i*), 291(1*j*), 291(1*k*), 291(1*m*), 291(1*v*), 291(1*w*), 291(1*x*), 291(1*u*), 291(1*p*), 291(1*q*), 291(1*s*), 291(1*t*), 329*p*, 302*c*, 302*d*, 302*e*, 302*f*, 302*g*, 544 (1*n*), 544 (1*p*), 544 (1*q*), 302*h*, 302*i*, 302*j*, 291*m*, 291*q*, 291*r*, 291*s*, 291*u*, 291*v*, 291(1*y*), 291*x*, 291*y*, 302*k*.

Chapter III. Sections 213*b* (note *c*), 213*c*, 213*d*, 213*e*, 213*f*, 213*g*, 213*h*, 213*i*, 213*j*, 213*k*, 213*l*, 213*m*, 213*n*, 213*o*.

Chapter V. Sections 439*a* and foot-note to 439*a*, 439*b*, 450*a*, 450*c*, 452*a*, 453*a*, 453*b*, 450*b*.

Legal Procedure (General).

found, as well as in any district or presidency-town in which it might be tried under the law relating to criminal procedure for the time being in force.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 84.]

Adjudication of offences and recovery of penalties.

520*g*. All offences under this Act, made punishable by any penalty, may be prosecuted summarily before a magistrate or any person exercising the powers of a magistrate. The provisions of Act XIII of 1856[1] relating to the adjudication of fines and penalties and the enforcing payment thereof, shall apply to penalties imposed under this Act in the towns of Calcutta, Madras, and Bombay.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 112.]

Legal proceedings in case of offences under Act to be deemed offences under Act of 1854.

520*h*. For the purpose of punishment, jurisdiction, and legal proceedings an offence under this Act shall be deemed to be an offence under the Merchant Shipping Act, 1854.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 40.]

Jurisdiction over ships lying off the coasts.

521. In all cases where any district within which any court or justice of the peace or other magistrate has jurisdiction either under this Act or under any other Act or at common law, for any purpose whatever, is situate on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river, or other navigable water, every such court, justice of the peace, or magistrate shall have jurisdiction over any ship or boat being on or lying or passing off such coast, or being in or near such bay, channel, lake, river, or navigable water as aforesaid, and over all persons on board such ship or boat, or for the time being belonging thereto, in the same manner as if such ship, boat, or persons were within the limits of the original jurisdiction of such court, justice, or magistrate.

Jurisdiction in case of offence on board ship.

521*a*. If any person being a British subject, charged with having committed any crime or offence on board any British ship on the high seas, or in any foreign port or harbour, or if any person, not being a British subject, charged with having committed any crime or offence on board a British ship on the high seas, is found within the jurisdiction of any court of justice in Her Majesty's dominions which would have had cognisance of such crime or offence if committed within the limits of its ordinary jurisdiction, such court shall have jurisdiction to hear and try the case, as if such crime or offence had been committed within such limits: Provided that nothing contained in this section shall be construed to alter or interfere with the Act of the thirteenth year of Her present Majesty, chapter ninety-six.—[Merchant Shipping Act Amendment Act, 1855, 18 & 19 Vic., c. 91, s. 21.]

Jurisdiction for trial of offences by British subjects on board British ships, or foreign ships to which they do not belong.

521*b*. If any British subject commits any crime or offence on board any British ship, or on board any foreign ship to which he does not belong, any court of justice in Her Majesty's dominions, which would have had cognisance of such crime or offence if committed on board a British ship within the limits of the ordinary jurisdiction of such court, shall have jurisdiction to hear and

[1] Repealed as to Calcutta by Ben: Act IV of 1866, section 2, and repealed as to Madras by Mad: Act VIII of 1867, section 81.

determine the case as if the said crime or offence had been committed as last aforesaid.—[Merchant Shipping Act, 1867, 30 & 31 Vic., c. 124, s. 11 (1*c*).]

Legal Procedure (Courts).

Jurisdiction in respect of forfeiture of ships for offences against Foreign Enlistment Act.

521*c*. All proceedings for the condemnation and forfeiture[1] of a ship, ship and equipment, or arms and munitions of war, in pursuance of this Act shall require the sanction of the Secretary of State or such chief executive authority as is in this Act mentioned, and shall be had in the court of admiralty, and not in any other court; and the court of admiralty shall, in addition to any power given to the court by this Act, have in respect of any ship or other matter brought before it in pursuance of this Act all powers which it has in the case of a ship or matter brought before it in the exercise of its ordinary jurisdiction.—[Foreign Enlistment Act, 1870, 33 & 34 Vic., c. 90, s. 19.]

Regulations as to proceedings against the offender and against the ship.

521*d*. Where any offence against this Act has been committed by any person by reason whereof a ship, or ship and equipment, or arms and munitions of war, has or have become liable to forfeiture,[2] proceedings may be instituted contemporaneously or not, as may be thought fit, against the offender in any court having jurisdiction of the offence, and against the ship, or ship and equipment, or arms and munitions of war, for the forfeiture in the court of admiralty; but it shall not be necessary to take proceedings against the offender because proceedings are instituted for the forfeiture, or to take proceedings for the forfeiture because proceedings are taken against the offender.—[Foreign Enlistment Act, 1870, 33 & 34 Vic., c. 90, s. 20.]

Place of inquiry or trial where scene of offence is uncertain; or not in one district only, or where offence is continuing or consists of several acts.

521*e*. Where it is uncertain in which of several local areas an offence was committed, or

Where an offence is committed partly in one local area and partly in another, or

Where it consists of several acts done in different local areas,

It may be inquired into or tried by a court having jurisdiction over any of such local areas.—[Code of Criminal Procedure, 1882—Act X of 1882, s. 182.]

Offence committed on a voyage.

521*f*. An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into, or tried by a court through or into the local limits of whose jurisdiction the offender or the person against whom, or the thing in respect of which, the offence was committed, passed, in the course of that journey or voyage.—[Code of Criminal Procedure, 1882—Act X of 1882, s. 183.]

As to jurisdiction over offences beyond the local limits of jurisdiction, regarding offences under the Indian Ports Act, see section 328 (5u).

Service to be good if made personally, or on board ship.

522. Service of any summons or other matter in any legal proceeding under this Act shall be good service if made personally on the person to be served, or at his last place of abode, or if made by leaving such summons for him on board any ship to which he may belong, with the person being or appearing to be in command or charge of such ship.

[1] See also ss. 267 and 267*a*.

[2] See s. 259*q*.

Legal Procedure (Generally).

Service on Agent by whom defendant carries on business.

522*a*. In a suit relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the courts from which the summons issues, service on any manager or agent, who, at the time of service, personally carries on such business or work for such person within such limits, shall be deemed good service.—[Code of Civil Procedure—Act XIV of 1882, s. 76.]

Service of order on master, &c.

522*b*. Where any order, notice, statement or document requires, for the purpose of any provision of this Act, to be served on the master of a ship, the same shall be served, where there is no master, and the ship is in the United Kingdom, on the managing owner of the ship, or if there is no managing owner, on some agent of the owner residing in the United Kingdom, or where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

Any such order, notice, statement or document may be served by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode, or in the case of a master by leaving it for him on board the ship with the person being or appearing to be in command or charge of such ship. Any person who obstructs the service of any order, notice, statement or document on the master of a ship shall incur a penalty not exceeding ten pounds, and if the owner or master of the ship is party or privy to such obstruction, he shall be guilty of a misdemeanor.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 35.]

As to service of written notice of direction by Conservators of Ports, see section 328(1f).

Power to issue summons or warrant for offence committed beyond local jurisdiction.

522*c*. When a presidency magistrate, a district magistrate, a sub-divisional magistrate, or, if he is specially empowered in this behalf by the Local Government, a magistrate of the first class, sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without British India) an offence which cannot, under the provisions of sections one hundred and seventy-seven to one hundred and sixty-four (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in British India, such magistrate may inquire into the offence as if it had been committed within such local limits, and compel such person in manner hereinbefore provided to appear before him, and send such person to the magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such magistrate.

Magistrate's procedure on arrest.

When there are more magistrates than one having such jurisdiction and the magistrate acting under this section cannot satisfy himself as to the magistrate to or before whom such person should be sent, or bound to appear, the case shall be reported for the orders of the high court.—[Code of Criminal Procedure, 1882—Act X of 1882, s. 186.]

Procedure.

522*d*. If the person has been arrested under a warrant issued under section

186 by a magistrate other than a presidency magistrate or district magistrate, such magistrate shall send the person arrested to the district magistrate to whom he is subordinate, unless the magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police-officer executing such warrant, or shall be sent to the magistrate by whom such warrant was issued.

Legal Procedure (Distraint).

Where warrant issued by subordinate magistrate.

If the offence which the person arrested is alleged or suspected to have committed is one which may be inquired into or tried by any criminal court in the same district other than that of the magistrate acting under section 186, such magistrate shall send such person to such court.—[Code of Criminal Procedure, 1882—Act X of 1882, s. 187.]

Distraint.

Distraint.

523. In all cases where any court, justice or justices of the peace, or other magistrate, has or have power to make an order directing payment to be made of any seaman's wages, penalties, or other sums of money, then if the party so directed to pay the same is the master or owner of a ship, and the same is not paid at the time and in manner prescribed in the order, the court, justice or justices, or other magistrate who made the order, may, in addition to any other powers they or he may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress or poinding and sale of the said ship, her tackle, furniture, and apparel.

Sums ordered to be paid, leviable by distress on ship.

523*a*. In all cases where any court or magistrate has power to make an order directing payment to be made of any seaman's wages, penalties, or other sums of money, then if the party so directed to pay the same is the master or owner of a ship, and the same is not paid at the time and in manner prescribed in the order, the court or magistrate who made the order may, in addition to any other powers which such court or magistrate may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the said ship, her tackle, furniture, and apparel.—[Merchant Seamen's Act, 1859—Act I of 1859, s. 113.]

Wages, penalties, &c., payable by master or owner may be levied by distress of ship.

523*b*. If the master of any vessel in respect of which any rates, charges, or penalties shall be payable under this Act or any bye-laws made in pursuance hereof shall refuse or neglect to pay the same, or any part thereof, on demand, it shall be lawful for the Board to distrain or arrest, of their own authority, such vessel, and the tackle, apparel, or furniture belonging thereto, or any part thereof and detain the same until the amount so due shall be paid; and, in case any part of the said rates or penalties, or of the cost of the distress or arrest, or of the keeping of the same, shall remain unpaid for the space of fifteen days next after any such distress or arrest shall have been so made, the Board may cause the vessel, or other thing so distrained or arrested, to be sold, and with the proceeds of such sale may satisfy such tolls, dues, rates,

Power to distrain for non-payment of rates, &c.

Distraint.

penalties or charges and costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.—[Bombay Port Trust, 1879—Bom: Act VI of 1879, s. 66.]

As to distraint on ship by collector of Customs for port dues and tolls, see sections 328-2v and 328 (4a).

As to distraint on ship by collector of Customs for rates, charges, and penalties under Rangoon Port Commissioners Act, see section 328 (4b).

As to distraint on ship by collector of Customs for light dues, see section 401a.

As to distraint on ship for recovery of fines, see section 328 (5m) under Regulation III of 1876.

As to distraint by Conservator of Port of Madras for non-payment of fines, see section 328 (2g).

As to distraint on ship for compensation for damage done to property of the Rangoon Commissioners, see section 328 (2n).

Application of penalties.

524. Any court, justice, or magistrate imposing any penalty under this Act, for which no specific application is herein provided, may, if it or he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or to be applied in or towards payment of the expenses of the proceedings; and, subject to such directions or specific application as aforesaid, all penalties recovered in the United Kingdom shall be paid into the receipt of Her Majesty's Exchequer in such manner as the Treasury may direct, and shall be carried to and form part of the consolidated fund of the United Kingdom; and all penalties recovered in any British possession shall be paid over into the public treasury of such possession, and form part of the public revenue thereof.

Limitation of time in summary proceedings.

525. The time for instituting summary proceedings under this Act shall be limited as follows (that is to say)—

(1) No conviction for any offence shall be made under this Act in any summary proceeding instituted in the United Kingdom, unless such proceeding is commenced within six months after the commission of the offence; or if both or either of the parties to such proceeding happen during such time to be out of the United Kingdom, unless the same is commenced within two months after they both first happen to arrive or to be at one time within the same:

(2) No conviction for any offence shall be made under this Act in any proceeding instituted in any British possession, unless such proceeding is commenced within six months after the commission of the offence; or if both or either of the parties to the proceeding happen during such time not to be within the jurisdiction of any court capable of dealing with the case, unless the same is commenced within two months after they both first

happen to arrive or to be at one time within such jurisdiction; Distraint.

(3) No order for the payment or money shall be made under this Act in any summary proceeding instituted in the United Kingdom, unless such proceeding is commenced within six months after the cause of complaint arises; or if both or either of the parties happen during such time to be out of the United Kingdom, unless the same is commenced within six months after they both first happen to arrive or to be at one time within the same:

(4) No order for the payment of money shall be made under this Act in any summary proceeding instituted in any British possession, unless such proceeding is commenced within six months after the cause of complaint arises; or if both or either of the parties to the proceeding happen during such time not to be within the jurisdiction of any court capable of dealing with the case, unless the same is commenced within six months after they both first happen to arrive or be at one time within such jurisdiction:

and no provision contained in any other Act or Acts, ordinance or ordinances, for limiting the time within which summary proceedings may be instituted shall affect any summary proceeding under this Act.

Documents proved without calling attesting witness.

526. Any document required by this Act to be executed in the presence of or to be attested by any witness or witnesses may be proved by the evidence of any person who is able to bear witness to the requisite facts, without calling the attesting witness or witnesses or any of them.

Power of judge of Court of Record or Admiralty to arrest foreign ship that has occasioned damage.

527. Whenever any injury has, in any part of the world, been caused to any property belonging to Her Majesty or to any of Her Majesty's subjects by any foreign ship, if at any time thereafter such ship is found in any port or river of the United Kingdom, or within three miles of the coast thereof, it shall be lawful for the judge of any Court of Record in the United Kingdom, or for the judge of the High Court of Admiralty, or in Scotland the Court of Session, or the sheriff of the county within whose jurisdiction such ship may be, upon its being shown to him by any person applying summarily that such injury was probably caused by the misconduct or want of skill of the master or mariners of such ship, to issue an order, directed to any officer of Customs or other officer named by such judge, requiring him to detain such ship until such time as the owner, master, or consignee thereof has made satisfaction in respect of such injury, or has given security, to be approved by the judge, to abide the event of any action, suit, or other legal proceeding that may be instituted in respect of such injury, and to pay all costs and damages that may be awarded thereon; and any officer of Customs or other officer to whom such order is directed shall detain such ship accordingly.

Attachment before judgment.

527*a*. If at any stage of any suit the plaintiff satisfies the court by

Distraint.

affidavit or otherwise that the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him—

(*a*) is about to dispose of the whole or any part of his property, or to remove the same from the jurisdiction of the court in which the suit is pending, or

(*b*) has quitted the jurisdiction of the court, leaving therein property belonging to him,

the plaintiff may apply to the court to call upon the defendant to furnish security to satisfy any decree that may be passed against him in such suit, and on his failing to give such security, to direct that any portion of his property within the jurisdiction of the court shall be attached until the further order of the court.

The application shall unless the court otherwise directs, specify the property required to be attached and the estimated value thereof.—[Code of Civil Procedure, 1882—Act XIV of 1882; s. 483.]

Power in foreign consuls to detain ship before application made to judge.

528. In any case where it appears that before any application can be made under the foregoing section such foreign ship will have departed beyond the limits therein mentioned, it shall be lawful for any commissioned officer on full pay in the military or naval service of Her Majesty, or any British officer of Customs, or any British Consular officer, to detain such ship until such time as will allow such application to be made and the result thereof to be communicated to him; and no such officer shall be liable for any costs or damages in respect of such detention, unless the same is proved to have been made without reasonable grounds.

Who to be defendant to suit in such cases.

529. In any action, suit, or other proceeding in relation to such injury, the person so giving security as aforesaid shall be made defendant or defender, and shall be stated to be the owner of the ship that has occasioned such damage; and the production of the order of the judge made in relation to such security shall be conclusive evidence of the liability of such defendant or defender to such action, suit, or other proceeding.

Board of Trade may sue in name of its officers.

529*a*. In any legal proceedings under the Merchant Shipping Acts, 1854 to 1873, the Board of Trade may take proceedings in the name of any of their officers.—[Merchant Shipping Act, 1873, 36 & 37 Vic., c. 85, s. 31.]

Application of the Army Act to ships.

529*b*. Where a person subject to military law is on board a ship, this Act shall apply until he arrives at the port of disembarkation in like manner as if he and the officers in command of him were on land at the place at which he embarked on board the said ship, subject to this proviso, that, if he is tried and sentenced while so on board ship, any finding and sentence, so far as not confirmed and executed on board ship, may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation. —[Army Act, 1881,[1] 44 & 45 Vic., c. 58, s. 188.]

[1] The Army Act is in force only for such time and subject to such provision as may be specified in an annual Act of Parliament bringing into force or continuing the same. See section 2 of 44 & 45 Vic., c. 58.

529c. Prosecutions under this Act may be instituted by the Commissioners or any person authorised by them in this behalf and not otherwise.—[Rangoon Port Commissioners Act, 1879—Act XV of 1879, s. 75.]

Prosecutions under Rangoon Port Commissioners' Act.

Legal Procedure (Scotland).

[Sections 530 to 543 are omitted as not relating to India.]

Admiralty Jurisdiction.

Jurisdiction (Admiralty Jurisdiction).

543a. And whereas His late Majesty King George the Second did by his letters patent, bearing date at Westminister the eighth day of January, in the twenty-sixth year of his reign, grant unto the said United Company of Merchants of England trading to the East Indies his royal charter, thereby, amongst other things constituting and establishing courts of civil, criminal, and ecclesiastical jurisdiction at the said united company's respective settlements of Madras-patnam, Bombay on the Island of Bombay, and Fort William in Bengal, which said charter does not sufficiently provide for the due administration of justice in such manner as the state and condition of the company's presidency of Fort William in Bengal, so long as the said company shall continue in the possession of the territorial acquisitions before mentioned, do and must require: Be it therefore enacted by the authority aforesaid that it shall and may be lawful for His Majesty, by charter or letters patent under the great seal of Great Britain, to erect and establish a supreme court of judicature at Fort William aforesaid, to consist of a chief justice and three other judges, being barristers in England or Ireland, of not less than five years' standing, to be named from time to time by His Majesty, his heirs and successors; which said supreme court of judicature shall have, and the same court is hereby declared to have, full power and authority to exercise and perform all civil, criminal, admiralty, and ecclesiastical jurisdiction, and to appoint such clerks and other ministerial officers of the said court, with such reasonable salaries, as shall be approved of by the said Governor-General and Council; and to form and establish such rules of practice, and such rules for the process of the said court, and to do all such other things as shall be found necessary for the administration of justice and the due execution of all or any of the powers which, by the said charter, shall or may be granted and committed to the said court; and also shall be at all times a court of record, and shall be a court of oyer and terminer and gaol delivery, in and for the said town of Calcutta and factory of Fort William in Bengal aforesaid, and the limits thereof, and the factories subordinate thereto.—[Act for the Government of India, 1773—13 Geo. III, c. 63, s. 13.][1]

His Majesty may, by charter or letters patent, establish a supreme court of judicature at Fort William to consist of a chief justice and three other judges.

543b. Provided nevertheless, and be it further enacted by the authority aforesaid, that the said new charter which His Majesty is hereinbefore empowered to grant, and the jurisdiction, powers and authorities to be thereby

Extent of jurisdiction and powers of His Majesty's charter.

[1] In pursuance of 13 Geo. III, c. 63, Letters Patent, dated 26th March 1774, establishing the Supreme Court at Fort William in Bengal, and declaring its powers, were issued.

Jurisdiction (Admiralty) Jurisdiction.

established, shall and may extend to all British subjects who shall reside in the kingdoms or provinces of Bengal, Behar, and Orissa, or any of them, under the protection of the said United Company, and the same charter shall be competent and effectual, and the supreme court of judicature therein and thereby to be established shall have full power and authority, to hear and determine all complaints against any of His Majesty's subjects for any crimes, misdemeanors or oppressions, committed or to be committed; and also to entertain, hear and determine any suits or actions whatsoever against any of His Majesty's subjects in Bengal, Behar, and Orissa, and any suit, action, or complaint, against any person who shall, at the time when such debt or cause of action or complaint shall have arisen, have been employed by, or shall then have been, directly or indirectly, in the service of the said United Company, or of any of His Majesty's subjects.—[An Act for the Government of India—13 Geo. III, c. 63, s. 14.]

And of the supreme court of judicature.

Charter of justice, dated 26th March 1774, recited.

543*c*. And whereas by the charter of justice under the great seal of Great Britain, bearing date twenty-sixth day of March, in the fourteenth year of His present Majesty's reign, for establishing the supreme court of judicature of Fort William in Bengal, His Majesty did grant, ordain, establish and appoint that the said supreme court of judicature should be a court of Admiralty, with power and authority to enquire, hear, try, examine and determine by the oaths of British subjects all treasons, murders, piracies, robberies, felonies, maimings, forestallings, extortions, trespasses, misdemeanors, offences, excesses and enormities and maritime causes whatsoever, according to the laws and customs of the admiralty of England, done, perpetrated or committed upon the high seas, rivers, ports, creeks, harbours and places overflown within the ebbing and flowing of the sea and high-water mark, within, about and throughout the provinces, countries or districts of Bengal, Behar, and Orissa and the territories or islands adjacent thereto and dependant thereon, the cognisance whereof doth belong to the jurisdiction of the admiralty as the same is used and exercised in that part of Great Britain called England: And whereas doubts have arisen how far the jurisdiction of the said supreme court in criminal matters is limitted by the said charter to offences committed on the coasts of Bengal, Behar, and Orissa, territories or islands respectively, within the ebbing and flowing of the sea and high-water mark: and inasmuch as it is essentially necessary that the admiralty-jurisdiction of the said supreme court of judicature should extend to crimes and offences committed on the high seas at large: Be it further enacted and declared that the power and authority of the said court granted to them by the said charter of justice shall extend and be extended to the high seas, and that the said court shall by force and virtue of this Act have full power and authority to enquire, hear, try, examine and determine, by the oaths of honest and lawful men, being British subjects resident in the town of Calcutta, all treasons, murders, piracies, robberies, felonies, maimings, forestallings, extortions, trespasses, misdemeanors, offences, excesses and enormities, and maritime causes whatsoever, according to the laws and customs of the admiralty of

Power given by recited charter to the supreme court of judicature to extend to the high seas.

England, done, perpetrated or committed upon any of the high seas, and to fine, imprison, correct, punish, chastise and reform parties guilty and violators of the laws, in like and in as ample manner to all intents and purposes as the said court might or could do if the same were done, perpetrated or committed within the limits prescribed by the said charter of justice, and not otherwise or in any other manner.—[An Act for the Government of India, 1793—33 Geo. III, c. 52, s. 156.]

Jurisdiction (Admiralty Jurisdiction).

543*d*. And whereas His late Majesty King George the Second did by his letters patent, bearing date at Westminster the eighth day of January in the twenty-sixth year of his reign, grant unto the United Company of Merchants trading to the East Indies his royal charter, thereby, amongst other things, constituting and establishing courts of civil, criminal, and ecclesiastical jurisdiction at the said United Company's settlements at Madras-patnam and Bombay in the island of Bombay and Fort William in Bengal: And whereas the said charter, in so far as it respects the administration of justice at Fort William in Bengal, has been altered and changed by an Act passed in the thirteenth year of His present Majesty's reign, intituled "An Act for establishing certain regulations for the better management of the affairs of the East India Company as well in India as in Europe:" And whereas the said charter does not sufficiently provide for the due administration of justice in such manner as the state and condition of the company's settlements at Madras-patnam and Bombay do and must require: Be it therefore enacted that it shall and may be lawful for His Majesty, by charter or letters patent under the great seal of Great Britain, to erect and establish a court of judicature at Madras and Bombay[1] respectively, which shall consist of the mayor and three of the aldermen resident at the said settlements of Madras and Bombay respectively for the time being, which aldermen shall from time to time be selected in such manner as shall be directed and prescribed by His Majesty in the said charter, together with one other person at each of the said settlements to be named from time to time by His Majesty, his heirs and successors, which said person shall be a barrister of England or Ireland of not less than five years' standing, which said person so appointed shall be the president of the said court, and shall be stiled the Recorder of Madras and Bombay respectively; which said courts of judicature shall have and the same are hereby declared to have full power and authority to exercise and perform all civil, criminal, and ecclesiastical and admiralty jurisdiction, and to appoint such ministerial officers as may be necessary, and to form and establish such rules of practice, and such rules for the process of the said court, and to do all such other things as shall be necessary for the administration of justice and the due execution of all or any of the powers which shall or may by the said charter be committed to the said courts; and the same shall also be at all times courts of oyer and terminer and gaol delivery in and for Fort Saint George and the town of Madras and the limits thereof and the factories subordinate thereto,

Recital of charter of King George the Second.

His Majesty may erect courts of judicature at Madras and Bombay, to consist of the mayor, three aldermen, and a recorder, who shall be a barrister, and be appointed by His Majesty.

[1] Supreme Court, Bombay, established by letters patent, 8th December 1823.

Jurisdiction (Admiralty Jurisdiction).

and in and for the town and island of Bombay and the limits thereof and the factories subordinate thereto respectively.—[Judicial Establishment Act, 37 Geo. III, c. 142, s. 9.]

Letters patent of Geo. 2, dated the 8th Jan. in the 21st year of his reign.

543*e*. And whereas His late Majesty King George the Second did by his letters patent, bearing date at Westminster the eighth day of January in the twenty-first year of his reign, grant unto the said United Company of Merchants of England trading to the East Indies his royal charter, thereby amongst other things constituting and establishing courts of civil, criminal, and ecclesiastical jurisdiction at the United Company's respective settlements at Madras-patnam, Bombay or the island of Bombay, and Fort William in Bengal: And whereas the said charter, in so far as it respects the administration of justice at Madras, has been altered and changed by virtue of an Act passed in the thirty-seventh year of His present Majesty, intituled "An Act for the better administration of justice at Calcutta, Madras, and Bombay, and for preventing British subjects from being concerned in loans to the native princes in India:" And whereas the said charter, so far as it respects the administration of justice at Fort William in Bengal, has also been altered and changed by virtue of an Act passed in the thirteenth year of His present Majesty, intituled "An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe," and by divers subsequent statutes: And whereas it may be expedient for the better administration of justice in the said settlement of Madras that a supreme court of judicature should be established at Madras,[1] in the same form and with the same powers and authorities as that now subsisting by virtue of the several Acts before-mentioned at Fort William in Bengal: Be it therefore enacted, that it shall and may be lawful for His Majesty, his heirs and successors, by charter or letters patent under the great seal of Great Britain, to erect and establish a supreme court of judicature at Madras aforesaid, to consist of such and the like number of persons, to be named from time to time by His Majesty, his heirs and successors, with full power to exercise such civil, criminal, admiralty, and ecclesiastical jurisdictions, both as to natives and British subjects, and to be invested with such power and authorities, privileges and immunities for the better administration of the same, and subject to the same limitations, restrictions and control within the said Fort Saint George and town of Madras and the limits thereof and the factories subordinate thereto, and within the territories which now are or hereafter may be subject to or dependant upon the said Government of Madras, as the said supreme court of judicature at Fort William in Bengal, by virtue of any law now in force and unrepealed, or by this present Act, doth consist of, is invested with or subject to, within the said Fort William or the kingdoms or provinces of Bengal, Behar, and Orissa.—[An Act for the Government of India, 1800—39 & 40 Geo. III, c. 79, s. 2.]

37 Geo. 3, c. 142.

13 Geo. 3, c. 63.

His Majesty may establish a supreme court of judicature at Madras, to consist of the like number of persons, and with the like powers, &c., as the supreme court at Fort William.

His Majesty may appoint

543*f*. And whereas it may be expedient for His Majesty, his heirs

[1] Supreme Court, Madras, established by letters patent dated 26th December 1800.

or successors, to issue a commission from his High Court of Admiralty in England for the trial and adjudication of prize causes and other maritime questions arising in India: Be it therefore further enacted that it shall and may be lawful for His Majesty, his heirs and successors, to nominate and appoint all or any of the judges of the supreme court of judicature at Fort William aforesaid, or of the supreme court of judicature to be erected as aforesaid at Madras, or the court of the recorder at Bombay, either alone or jointly with any other persons to be named in such commission, to be commissioners for the purpose of carrying such commission so to be issued as aforesaid into execution, any Act or Acts to the contrary thereof in any wise notwithstanding.—[An Act for the Government of India, 1800—39 & 40 Geo. III, c. 79, s. 25.]

Jurisdiction (Admiralty Jurisdiction).

Commissioners for carrying into execution a commission for the trial and adjudication of prize causes, &c. in India.

543*g*. And whereas the courts established by the said united company have no jurisdiction over crimes maritime, and doubts have been entertained whether the admiralty jurisdiction of His Majesty's courts at Calcutta, Madras, and Bombay extends to any persons but those who are amenable to their ordinary jurisdiction, by reason whereof failures of justice may arise: Be it therefore enacted that it shall and may be lawful for His Majesty's courts at Calcutta, Madras, and Bombay exercising admiralty jurisdiction to take cognizance of all crimes perpetrated on the high seas by any person or persons whatsoever, in as full and ample a manner as any other court of admiralty jurisdiction established by His Majesty's authority in any colony or settlement whatsoever belonging to the Crown of the said United Kingdom.—[An Act for the Government of India, 1813—53 Geo. III, c. 155, s. 110.]

Admiralty jurisdiction of King's courts extended.

543*h*. It shall be lawful for Her Majesty, by letters patent[1] under the great seal of the United Kingdom, to erect and establish a high court of judicature at Fort William in Bengal for the Bengal division of the presidency of Fort William aforesaid, and by like letters patent to erect and establish like high courts at Madras and Bombay for those presidencies respectively, such high courts to be established in the said several presidencies at such time or respective times as to Her Majesty may seem fit; and the high court to be established under any such letters patent in any of the said presidencies shall be deemed to be established from and after the publication of such letters patent in the same presidency, or such other time as in such letters patent may be appointed in this behalf.—[High Courts of Judicature Act, 1861, 24 & 25 Vic., c. 104, s. 1.]

High Courts may be established in the several presidencies of India.

543*i*. Upon the establishment of such high court as aforesaid in the presidency of Fort William in Bengal the supreme court and the court of sadr díwání adálat and sadr nizámat adálat at Calcutta in the same Presidency shall be abolished:

Abolition of supreme courts and sadr courts.

[1] High Court of Judicature at Fort William in Bengal, established by Letters Patent, dated 14th May 1862, and by further Letters Patent, dated 28th December 1865.

High Courts of Judicature at Madras and Bombay, established by Letters Patent of the same dates.

Jurisdiction (Admiralty Jurisdiction).

And upon the establishment of such high court in the presidency of Madras the supreme court and the court of sadr adálat and faujdári adálat in the same presidency shall be abolished:

And upon the establishment of such high court in the presidency of Bombay the supreme court and the court of sadr diwání adálat and sadr faujdári adálat in the same presidency shall be abolished:

And the records and documents of the several courts so abolished in each presidency shall become and be records and documents of the high court established in the same presidency.—[High Courts of Judicature Act, 1861, 24 & 25 Vic., c. 104, s. 8.]

Jurisdiction and powers of high courts.

543*j*. Each of the high courts to be established under this Act shall have and exercise all such civil, criminal, admiralty and vice-admiralty, testamentary, intestate, and matrimonial jurisdiction, original and appellate, and all such powers and authority for and in relation to the administration of justice in the presidency for which it is established, as Her Majesty may by such letters patent as aforesaid grant and direct, subject, however, to such directions and limitations as to the exercise of original civil and criminal jurisdiction beyond the limits of the presidency towns as may be prescribed thereby; and, save as by such letters patent may be otherwise directed, and subject and without prejudice to the legislative powers in relation to the matters aforesaid of the Governor General of India in Council, the high court to be established in each presidency shall have and exercise all jurisdiction and every power and authority whatsoever in any manner vested in any of the courts in the same presidency abolished under this Act at the time of the abolition of such last-mentioned courts.—[High Courts of Judicature Act, 1861, 24 & 25 Vic., c. 104, s. 9.]

Admiralty Jurisdiction (Colonies).

Admiralty Jurisdiction (Colonies).

All persons charged in any colony with offences committed on the sea, or in places within the jurisdiction of the admiralty, may be dealt with in the same manner as if the offences had been committed on waters within the local jurisdiction of the courts of the colony.

543*k*. Whereas by an Act passed in the eleventh year of the reign of King William the Third, intituled "An Act for the more effectual suppression of piracy," it is enacted that all piracies, felonies, and robberies committed on the sea, or in haven, river, creek or place where the admiral or admirals have power, authority, or jurisdiction, may be examined, inquired of, tried, heard and determined, and adjudged, in any place at sea or upon land in any of His Majesty's islands, plantations, colonies, dominions, forts or factories, to be appointed for that purpose by the King's Commission, in the manner therein directed, and according to the civil law and the method and rules of the admiralty. And whereas by an Act passed in the 46th year of the reign of King George the Third, intituled "An Act for the speedy trial of offences committed in distant parts upon the sea," it is enacted that all treasons, piracies, felonies, robberies, murders, conspiracies, and other offences of whatever nature or kind whatsoever, committed upon the sea, or in haven, river, creek or place where the admiral or admirals have power, authority or jurisdiction, may be inquired

of, tried, heard, determined and adjudged according to the common course of the laws of this realm used for offences committed upon the land within this realm, and not otherwise, in any of His Majesty's islands, plantations, colonies, dominions, forts or factories, under and by virtue of the King's commission or commissions under the great seal of Great Britain, to be directed to commissioners in the manner, and with the powers and authorities therein provided: And whereas it is expedient to make further and better provision for the apprehension, custody, and trial in Her Majesty's islands, plantations, colonies, dominions, forts and factories, of persons charged with the commission of such offences on the sea, or in any such haven, river, creek or place as aforesaid: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in the present Parliament assembled, and by the authority of the same, that if any person within any colony shall be charged with the commission of any treason, piracy, felony, robbery, murder, conspiracy, or other offence, of what nature or kind soever, committed upon the sea, or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, or if any person charged with the commission of any such offence upon the sea, or in any such haven, river, creek, or place, shall be brought for trial to any colony, then and in every such case all magistrates, justices of the peace, public prosecutors, juries, judges, courts, public officers, and other persons in such colony shall have and exercise the same jurisdiction and authorities for inquiring of, trying, hearing, determining, and adjudging such offences, and they are hereby respectively authorised, empowered, and required to institute and carry on all such proceedings for the bringing of such person so charged as aforesaid to trial, and for and auxiliary to and consequent upon the trial of any such person for any such offence wherewith he may be charged as aforesaid, as by the law of such colony would and ought to have been had and exercised or instituted and carried on by them respectively if such offence had been committed, and such person had been charged with having committed the same, upon any waters situate within the limits of any such colony, and within the limits of the local jurisdiction of the courts of criminal justice of such colony.—[Admiralty Offences Colonial Act, 1849, 12 & 13 Vic., c. 96, s. 1.]

Admiralty Jurisdiction (Colonies).

543*l*. Provided always, and be it enacted, that if any person shall be convicted before any such court of any such offence, such person so convicted shall be subject and liable to, and shall suffer, all such and the same pains, penalties, and forfeitures, as by any law or laws now in force persons convicted of the same respectively would be subject and liable to in case such offence had been committed, and were enquired of, tried, heard, determined, and adjudged, in England, any law, statute, or usage to the contrary notwithstanding.—[Admiralty Offences Colonial Act, 1849, 12 & 13 Vic., c. 96, s. 2.]

Persons convicted of such offences shall suffer the like punishments as on conviction of like offences in England.

543*m*. And be it enacted that where any person shall die in any colony of any stroke, poisoning, or hurt, such person having been feloniously stricken,

Provision for trial in any colony of persons charged

Admiralty Jurisdiction (Continued).

with murder, manslaughter, &c., where death in the colony, &c., follows from injuries inflicted on the sea, &c.

poisoned, or hurt upon the sea, or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, or at any place out of such colony, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, dertermined, and punished, in such colony, in the same manner and in all respects as if such offence had been wholly committed in that colony; and that if any person in any colony shall be charged with any such offence as aforesaid in respect of the death of any person who, having been feloniously stricken, poisoned, or otherwise hurt, shall have died of such stroke, poisoning, or hurt upon the sea, or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, such offence shall be held for the purpose of this Act to have been wholly committed upon the sea.—[Admiralty Offences Colonial Act, 1849, 12 & 13 Vic., c. 96, s. 3.]

Where any person is charged in any colony in respect of the death on the sea, &c., of any person, such offence shall be deemed to have been committed on the sea.

Proceedings in case of persons entitled to be tried by the supreme court of a presidency.

543*n*. Provided always that where any person within any place in India is charged with the commission of any offence in respect of which jurisdiction is given by the said Act,[1] or where any person charged with the commission of any such offence is brought for trial under the said Act to any place in India, if at any time before his trial he make it appear to the court exercising criminal jurisdiction in the place where he is so charged or brought for trial, that in case the offence charged had been committed in such place he could have been tried only in the supreme court of one of the three presidencies in India, and claim to be tried by such a supreme court accordingly, the said court exercising criminal jurisdiction as aforesaid shall certify the fact and claim to the governor of such place or chief local authority thereof; and such governor or chief local authority thereupon shall order and cause the person charged to be sent in custody to such one of the presidencies as such governor shall think fit for trial before the supreme court of such presidency; and the said supreme court and all public officers and other persons in the presidency shall have the same jurisdiction and authorities, and proceed in the same manner in relation to the person charged with such offence, as if the same had been committed or originally charged to have been committed within the limits of the ordinary jurisdiction of such supreme court.—[Admiralty Jurisdiction Act, 1860, 23 & 24 Vic., c. 88, s. 2.]

The Legislatures of Her Majesty's possession abroad may legislate for trial, etc., of offences committed in such possession where persons injured die out of the limits thereof, see sec. 269a.

At trials in any colonial courts by virtue of Imperial Acts, courts empowered to pass sentences, as if crimes had been committed in the colony.

543*o*. When, by virtue of any Act of Parliament now or hereafter to be passed, a person is tried in a court of any colony for any crime or offence committed upon the high seas or elsewhere out of the territorial limits of such colony and of the local jurisdiction of such court, or if committed within such local jurisdiction made punishable by that Act, such person shall, upon convic-

[1] 12 & 13 Vic., c. 96.

tion, be liable to such punishment as might have been inflicted upon him if the crime or offence had been committed within the limits of such colony and of the local jurisdiction of the court, and to no other, anything in any Act to the contrary notwithstanding: Provided always that if the crime or offence is a crime or offence not punishable by the law of the colony in which the trial takes place, the person shall, on conviction, be liable to such punishment (other than capital punishment) as shall seem to the court most nearly to correspond to the punishment to which such person would have been liable in case such crime or offence had been tried in England.—[The Courts' Colonial Jurisdiction Act, 1874, 37 & 38 Vic., c. 27, s. 3.]

Admiralty Jurisdiction (Colonies).

Admiralty Jurisdiction over Pirates.

543*p*. And be it enacted that whenever any of Her Majesty's ships of war or hired armed vessels . . . . . or their boats, or any of the official crew thereof shall . . . . . attack or be engaged with any persons alleged to be pirates afloat or ashore, it shall be lawful for the High Court of Admiralty of England, and for all courts of vice-admiralty in any dominions of Her Majesty beyond the seas . . . . . to take cognizance of and to determine whether the persons or any of them so attacked or engaged were pirates, and to adjudge what was the total number of privates so engaged or attacked, specifying the number of pirates captured, and what were the vessels and boats engaged.—[Admiralty Courts Act, 1850, 13 & 14 Vic., c. 26, s. 2.]

Jurisdiction given to high court of admiralty and vice-admiralty courts in case where ships of war are engaged with persons alleged to be pirates, to determine whether they were pirates, and their number, &c.

543*q*. And be it enacted that with a view to the assignment of fitting rewards for services performed by Her Majesty's forces against pirates, the registrars of the several vice-admiralty courts shall, on the first day of January and first day of July in every year, transmit to the said lords commissioners of the admiralty a list or return of all cases which shall have been adjudged in the said courts respectively under this Act during the six months preceding, together with the dates of the seizure, according to the schedule marked (A) to this Act annexed; and that the judges or registrars of the said courts respectively shall, upon the first convenient opportunity after every such decision, transmit the whole of the original evidence, with a statement of the proceedings, to the said lords commissioners of the admiralty, for the purpose of the same being deposited in the high court of admiralty of England for reference when necessary; and all agents of officers and men receiving any rewards hereinbefore referred to shall be subject to the same laws, rules, and regulations to which agents receiving bounty for the abolition of the slave trade are or may be subject.

List or return of all cases decided in vice-admiralty courts to be sent to the lords commissioners of the admiralty every six months in form in schedule. Evidence to be transmitted to and deposited in high court of admiralty.

Admiralty Jurisdiction over Pirates.

SCHEDULE A.

Date of attack or destruction.	Property seized, if any.	Names of attacking Ships.	Date of sentence.	Decretal part of sentence.	Whether any property has been condemned, sold, or converted, and whether any part remains unsold, and in whose hands the proceeds remain.

[Admiralty Courts Act, 1860, 13 & 14 Vic., c. 26, s. 3.]

Property of Pirates subject to Admiralty Courts.

Ships, &c., taken from pirates may be proceeded against, and shall be liable to condemnation as droits of admiralty;

but property proved to have belonged to any subjects of Her Majesty or of any foreign power, shall be restored on payment of one-eighth of the value,

and the sum paid shall be distributed among the captains as directed by Order in Council.

543*r*. And be it enacted that all ships, vessels, boats, goods, merchandize, specie, or other property taken possession of from pirates by any of Her Majesty's ships or vessels of war, or hired armed vessels . . . . . or their boats, or any of the officers and crews thereof, shall and may be proceeded against in any of the admiralty courts before-mentioned, and be subject and liable to condemnation as droits and perquisites of Her Majesty in her office of admiralty: Provided always that if any part of the said property shall be duly proved to have belonged to and to have been taken from any of Her Majesty's subjects, or from the subjects of any foreign power, then such property and every part thereof shall, by the decree of the said court, be adjudged to be restored, and shall be accordingly restored, to the former owner or owners, proprietor or proprietors thereof respectively, he or they paying for or in lieu of salvage a sum of money equal to one eighth part of the true value, which money, *if such property shall have been taken by any of Her Majesty's ships or vessels of war or hired armed ships, or their boats* [Repealed Stat. Law Rev. Act, 1875], shall be paid to and divided and distributed amongst the officers and crews thereof in such manner, form, and proportion as other bounties are now distributable by virtue of Her Majesty's proclamation or Order in Council dated the thirtieth day of July one thousand eight hundred and forty-nine, or as Her Majesty, her heirs and successors, shall from time to time by any further proclamation or Order or Orders in Council think fit to declare and direct; . . . . . [Admiralty Courts Act, 1860, 13 & 14 Vic., c. 26, s. 5.]

Persons giving false evidence deemed guilty of perjury.

543*s*. And be it enacted that every person who shall wilfully and corruptly give false evidence in any examination or deposition had or affidavit

taken in any proceeding under this Act shall be deemed guilty of perjury, and being thereof convicted shall be subject and liable to all the punishments, pains, and penalties to which persons convicted of wilful and corrupt perjury are liable; and every such person may be tried for any such perjury either in the place where the offence was committed or in any colony or settlement of Her Majesty near thereto, in which there is a court of competent jurisdiction to try any such offence, or in Her Majesty's Court of Queen's Bench in England; and that in case of any prosecution for such offence in Her Majesty's said Court of Queen's Bench the venue may be laid in the county of Middlesex.—[Admiralty Courts Act, 1860, 13 & 14 Vic., c. 26, s. 6.]

Admiralty Jurisdiction over Pirates.

Trial of such persons.

543*t*. The High Court of Admiralty shall have jurisdiction throughout Her Majesty's dominions as a prize court.

Jurisdiction of High Court of Admiralty.

The High Court of Admiralty as a prize court shall have power to enforce any order or decree of a vice-admiralty prize court, and any order or decree of the judicial committee of the privy council in a prize appeal.—[Naval Prize Act, 1864, 27 & 28 Vic., c. 25, s. 4.]

Vice-Admiralty Courts.

Vice-Admiralty Courts.

543*u*. In any British possession, where the office of vice-admiral is now or shall at any time hereafter become vacant, the governor of such possession shall be *ex-officio* vice-admiral thereof, until a notification is received in the possession that a formal appointment to that office has been made by the Admiralty in the manner hereinafter mentioned.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 3.]

Appointment of vice-admiral.

543*v*. On the governor of any British possession, who is also vice-admiral thereof, vacating the office of governor of such possession, the office of vice-admiral of the same possession shall thereupon be deemed to be also vacant within the meaning of the third section of the Vice-Admiralty Courts Act, 1863.—[Vice-Admiralty Courts Act Amendment Act, 1867,[1] 30 & 31 Vic., c. 45, s. 4.]

Tenure of office of vice-admiral.

543*w*. In any British possession, where the office of judge of a vice-admiralty court is now or shall at any time hereafter become vacant, the chief justice, or the principal judicial officer of such possession, or the person for the time being lawfully authorised to act as such, shall be *ex-officio* judge of the vice-admiralty court, until a notification is received in the possession that a formal appointment to that office has been made by the Admiralty in the manner hereinafter mentioned.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 4.]

Appointment of judge.

543*x*. The judge of any vice-admiralty court may from time to time, with the approval in writing of the governor of the British possession in which the

Judge may appoint deputy judges.

[1] To be read as one with Vice-Admiralty Courts Act, 1863.

Vice-Admiralty Courts.

court is established, appoint one or more deputy judge or judges to assist or represent him in the execution of his judicial powers.—[Vice-Admiralty Courts Act Amendment Act, 1867, 30 & 31 Vic., c. 45, s. 5.]

Judicial powers of deputy judges.

543*y*. It shall be lawful for any such deputy judge to exercise all the judicial powers of the judge; and all acts done by such deputy judge shall be as valid and effectual, to all intents and purposes, as if they had been done by the judge; and all orders or decrees made by such deputy judge shall be subject to the same right of appeal in all respects as if they had been made by the judge.—[Vice-Admiralty Courts Act Amendment Act, 1867, 30 & 31 Vic., c. 45, s. 6.]

Orders to be subject to appeal.

Deputy judges may sit separately, and at same time as judge or other deputies.

543*z*. Any deputy judge may sit at the principal seat of government or elsewhere in the possession at the same time that the judge or any other deputy judge is sitting, and either at the same or at any other place in such possession, and whether the judge is or is not at that time within the possession.—[Vice-Admiralty Courts Act Amendment Act, 1867, 30 & 31 Vic., c. 45, s. 7.]

Judge may sit with deputy judges.

543 (*1a*). The judge may, if he thinks fit, require any such deputy judge or judges to sit with him in the same court, and in such case the decision of the majority, or, if they are equally divided in opinion, the decision of the judge, shall be the decision of the court; and such decision shall be subject to the same right of appeal in all respects as if it had been made by the judge alone—[Vice-Admiralty Courts Act Amendment Act, 1867, 30 & 31 Vic., c. 45, s. 8.]

Decisions to be subject to appeal.

Judge to regulate proceedings before deputy judges and division of business, &c.

543 (*1b*). The judge may direct at what place and time any such deputy judge shall sit, and what causes shall be heard before him, and generally make such arrangements as to him shall seem proper as to the division and despatch of the business of the court.—[Vice-Admiralty Courts Act Amendment Act, 1867, 30 & 31 Vic., c. 45, s. 9.]

Tenure of office of deputy judges.

543 (*1c*). The judge may, if he thinks fit, with the approval in writing of the governor, at any time revoke the appointment of any such deputy judge or judges; but the appointment shall not be determined by the occurrence of a vacancy in the office of the judge.—[Vice-Admiralty Courts Act Amendment Act, 1867, 30 & 31 Vic., c. 45, s. 10.]

Judge may delegate ministerial powers.

543 (*1d*). The judge may, if he thinks fit, from time to time delegate all or any of his ministerial powers to any such deputy judge or judges.—[Vice-Admiralty Courts Act Amendment Act, 1867, 30 & 31 Vic., c. 45, s. 11.]

Appointment of registrar and marshal.

543 (*1e*). In any British possession, where the office of registrar or marshal of any vice-admiralty court is now or shall at any time hereafter become vacant, the judge of the court may, with the approval of the governor, appoint some person to the vacant office, until a notification is received in the possession that a formal appointment thereto has been made by the Admiralty in the manner hereinafter mentioned, and may, for good and reasonable cause, to be approved by the governor, remove the person so appointed. The judge may also appoint some person to act as registrar or marshal during the

temporary absence of either of those officers.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 5.] *Vice-Admiralty Courts.*

543 (*If*). The judge may from time to time, if he thinks fit, appoint any competent persons to act respectively as deputy registrars and deputy marshals of the court, and may, if he thinks fit, at any time revoke any such appointment; but the appointment shall not be determined by the occurrence of a vacancy in the office of the judge.—[Vice-Admiralty Courts Act Amendment Act, 1867, 30 & 31 Vic., c. 45, s. 12.] *Judge may appoint deputy registrars and marshals. Tenure of office.*

543 (*Ig*). On any vacancy in the office of judge, registrar, or marshal of any vice-admiralty court, the governor of the British possession in which the court is established shall, as soon as is practicable, communicate to one of Her Majesty's Principal Secretaries of State the fact of the vacancy, and the name of the person succeeding or appointed to the vacant office.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 6.] *Vacancies, &c., to be notified to Secretary of State.*

543 (*Ih*). Notwithstanding anything contained in this Act, it shall be lawful for the Admiralty, if they think fit, at any time to revoke the appointment of any deputy judge, deputy registrar, or deputy marshal appointed under this Act.—[Vice-Admiralty Courts Act Amendment Act, 1867, 30 & 31 Vic., c. 45, s. 13.] *Admiralty may revoke appointments.*

543 (*Ii*). Any deputy judge, deputy registrar, or deputy marshal appointed under this Act shall be entitled to the same fees in respect of any duty performed by him as would be lawfully payable to the judge, registrar, or marshal respectively for the performance of the same duty.—[Vice-Admiralty Courts Act Amendment Act, 1867, 30 & 31 Vic., c. 45, s. 14.] *Deputies entitled to receive fees.*

543 (*Ij*). Nothing in this Act contained shall be taken to affect the power of the Admiralty to appoint any vice-admiral, or any judge, registrar, marshal or other officer of any vice-admiralty court, as heretofore, by warrant from the Admiralty, and by letters patent issued under seal of the High Court of Admiralty of England.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 7.] *Saving the powers of the Admiralty.*

543 (*Ik*). No act done by any person in the capacity of judge, registrar or marshal of any vice-admiralty court, which shall not have been set aside by any competent authority before the passing of this Act, shall be held invalid by reason that such person had not been duly appointed; but all such acts shall be as valid and effectual as if done by a person duly appointed.—[Vice-Admiralty Courts Acts, 1863, 26 & 27 Vic., c. 24, s. 8.] *Past proceedings confirmed.*

543 (*Il*). No action, prosecution, or other proceeding shall be brought against any such person by reason of the illegality or informality of any Act hereby declared to be valid and effectual.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 9.] *Protection of officers.*

543 (*Im*). The matters in respect of which the vice-admiralty courts shall have jurisdiction are as follow:— *Jurisdiction of Vice-Admiralty Courts.*

(1) Claims for seamen's wages;

Vice-Admiralty Courts.

(2) Claims for master's wages, and for his disbursements on account of the ship:

(3) Claims in respect of pilotage:

(4) Claims in respect of salvage of any ship, or of life or goods therefrom:

(5) Claims in respect of towage:

(6) Claims for damage done by any ship:

(7) Claims in respect of bottomry or respondentia bonds:[1]

(8) Claims in respect of any mortgage, where the ship has been sold by a decree of the vice-admiralty court, and the proceeds are under its control:

(9) Claims between the owners of any ship registered in the possession in which the court is established, touching the ownership, possession, employment, or earnings, of such ship:

(10) Claims for necessaries supplied, in the possession in which the court is established, to any ship of which no owner or part owner is domiciled within the possession at the time of the necessaries being supplied:

(11) Claims in respect of the building, equipping, or repairing within any British possession of any ship of which no owner or part owner is domiciled within the possession at the time of the work being done.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c 24, s. 10.]

Assessors in causes of salvage, &c.

543 (*1n*). And whereas it is also expedient to provide for the assistance of assessors in certain causes in courts exercising admiralty or vice-admiralty jurisdiction, it is hereby further enacted as follows:—

In any admiralty or vice-admiralty cause of salvage, towage, or collision, the court, whether it be exercising its original or its appellate jurisdiction, may, if it think fit, and upon request of either party to such cause shall, summon to its assistance, in such manner as the court may by rule from time to time direct, two competent assessors; and such assessors shall attend and assist accordingly.

Every such assessor shall receive such fees for his attendance as the court by rule prescribes. Such fees shall be paid by such of the parties as the court in each case may direct.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 85.]

Further jurisdiction of Vice-Admiralty Courts.

543 (*1o*). The vice-admiralty courts shall also have jurisdiction—

(1) In all cases of breach of the regulations and instructions relating to Her Majesty's navy at sea:

[1] Under the Indian Stamp Act, respondentia and bottomry bonds, if not excepted by any special Act from stamp duty, require a duty—

Where the amount secured does not exceed Rs. 10, of two annas.
" " " " 50, of four annas.
" " exceeds Rs. 50, but not " 100, of eight annas.
" for every hundred rupees, or part thereof in excess of Rs. 100 up to Rs. 1,000, of eight annas.
" for every five hundred rupees or part thereof in excess of Rs. 1,000, of two rupees eight annas.—[Indian Stamp Act, 1879—Act I of 1879, Arts. 15 and 55 of Sch. I.]

(2) In all matters arising out of droits of Admiralty.

[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 11.]

Vice-Admiralty Courts.

543 (*1p*). Nothing contained in this Act shall be construed to take away or restrict the jurisdiction conferred upon any vice-admiralty court by any Act of Parliament in respect of seizures for breach of the revenue, customs, trade, or navigation laws, or of the laws relating to the abolition of the slave trade, or to the capture and destruction of pirates and piratical vessels, or any other jurisdiction now lawfully exercised by any such court; or any jurisdiction now lawfully exercised by any other court within Her Majesty's dominions.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 12.]

Act not to restrict existing jurisdiction.

543 (*1q*). The jurisdiction of the vice-admiralty courts, except where it is expressly confined by this Act to matters arising within the possession in which the court is established, may be exercised, whether the cause or right of action has arisen within or beyond the limits of such possession.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 13.]

Limits of jurisdiction.

543 (*1r*). Her Majesty may, by Order in Council, from time to time establish rules touching the practice to be observed in the vice-admiralty courts, as also tables of the fees to be taken by the officers and practitioners thereof for all acts to be done therein, and may repeal and alter the existing and all future rules and tables of fees, and establish new rules and tables of fees in addition thereto, or in lieu thereof.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 14.]

Her Majesty may establish and alter rules and tables of fees.

543 (*1s*). A copy of any rules or tables of fees which may at any time be established shall be laid before the House of Commons within three months from the establishing thereof, or if Parliament shall not be then sitting, or if the session shall terminate within one month from that date, then within one month after the commencement of the next session.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 15.]

Rules and tables of fees to be laid before the House of Commons;

543 (*1t*). The rules and tables of fees in force in any vice-admiralty court shall, as soon as possible after they have been received in the British possession in which the court is established, be entered by the registrar in the public books or records of the court; and the books or records in which they are so entered shall at all reasonable times be open to the inspection of the practitioners and suitors in the court.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 16.]

and to be entered in the records of the courts, &c.;

543 (*1u*). A copy of the rules and tables of fees in force in any vice-admiralty court shall be kept constantly hung up in some conspicuous place as well in the court as in the office of the registrar.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 17.]

and a copy to be hung up in court, &c.

543 (*1v*). The fees established for any vice-admiralty court shall, after the date fixed for them to come into operation, be the only fees which shall be taken by the officers and practitioners of the court.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 18.]

Established fees to be the only fees taken.

543 (*1w*). Any person who shall feel himself aggrieved by the charges of

Taxation may be

Vice-Admiralty Courts.

Taxation of charges by the High Court of Admiralty.

any of the practitioners in any vice-admiralty court, or by the taxation thereof by the officers of the court, may apply to the High Court of Admiralty of England to have the charges taxed, or the taxation thereof revised.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 19.]

Registrar may administer oaths.

Penalty for false swearing.

543 (*1c*). The registrar of any vice-admiralty court shall have power to administer oaths in relation to any matter depending in the court; and any person who shall wilfully swear falsely in any proceeding before the registrar, or before any other person authorised to administer oaths in the court, shall be deemed guilty of perjury, and shall be liable to all the penalties attaching to wilful and corrupt perjury.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 20.]

Hearing of cross causes in respect of collisions.

543 (*1d*). If a cause of damage by collision be instituted in any vice-admiralty court, and the defendant institute a cross cause in respect of the same collision, the judge may, on application of either party, direct both causes to be heard at the same time and on the same evidence; and if the ship of the defendant in one of the causes has been arrested, or security given by him to answer judgment, but the ship of the defendant in the other cause cannot be arrested, and security has not been given to answer judgment therein, the court may, if it think fit, suspend the proceedings in the former cause until security has been given to answer judgment in the latter cause.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 21.]

Barristers and solicitors entitled to practise in Vice-Admiralty Courts.

543 (*1e*). All persons entitled to practise as advocates, barristers-at-law, proctors, attorneys-at-law, or solicitors in the superior courts of a British possession shall be entitled to practise in the same respective capacities in the vice-admiralty court or courts of such possession, and shall have therein all the rights and privileges respectively belonging to advocates, barristers-at-law, proctors, attorneys-at-law, and solicitors, and shall in like manner be subject to the authority of the person for the time being lawfully exercising the office of judge of such court.—[Vice-Admiralty Courts Act Amendment Act, 1867, 30 & 31 Vic., c. 45, s. 15.]

Recited Act and this Act to apply to courts in the Straits Settlements.

543 (*2a*). The vice-admiralty courts Act, 1863, shall, together with this Act, apply to any vice-admiralty court now established or hereafter to be established in the Straits Settlements.—[Vice-Admiralty Courts Act Amendment Act, 1867, 30 & 31 Vic., c. 45, s. 17.]

Her Majesty may authorise establishment of Vice-Admiralty Courts in possessions having legislative powers. Jurisdiction of existing courts confirmed.

543 (*2b*). It shall be lawful for Her Majesty to empower the Admiralty, by commission under the Great Seal, to establish one or more vice-admiralty courts in any British possession, notwithstanding that such possession may have previously acquired independent legislative powers; and the jurisdiction and authority of all the existing vice-admiralty courts are hereby declared to be confirmed, to all intents and purposes, notwithstanding that the possession in which any such court has been established may at the time of its establishment have been in possession of legislative powers.—[Vice-Admiralty Courts Act Amendment Act, 1867, 30 & 31 Vic., c. 45, s. 16.]

Appeal.

543 (*2c*). The appeal from a decree or order of a vice-admiralty court lie

to Her Majesty in Council; but no appeal shall be allowed, save by permission of the judge, from any decree or order not having the force or effect of a definitive sentence or final order.—[Vice-Admiralty Courts Act, 1863, 26 & 27 Vic., c. 24, s. 22.]

Vice-Admiralty Courts.

543 (2d). The time for appealing from any decree or order of a vice-admiralty court shall, notwithstanding any existing enactment to the contrary, be limited to six months from the date of the decree or order appealed from; and no appeal shall be allowed where the petition of appeal to Her Majesty shall not have been lodged in the registry of the High Court of Admiralty and of Appeals within that time, unless Her Majesty in Council shall, on the report and recommendation of the judicial committee of the privy council, be pleased to allow the appeal to be prosecuted, notwithstanding that the petition of appeal has not been lodged within the time prescribed.—[Vice-Admiralty Courts Act, 1863,[1] 26 & 27 Vic., c. 24, s. 23.]

Appeal to be lodged within six months.

543 (2e). The limitation of the time allowed for appeals contained in the twenty-third section of the Vice-Admiralty Courts Act, 1863, shall be held to apply to all decrees or orders pronounced in any vice-admiralty court now established or hereafter to be established in any of Her Majesty's possessions in India.—[Vice-Admiralty Courts Act Amendment Act, 1867, 30 & 31 Vic., c. 45, s. 18.]

26 & 27 Vic., c. 24, s. 23, extended to appeals from Vice-Admiralty Courts in Indian possessions.

543 (2f). Whereas it is expedient that provision should be made for the regulation of the practice to be observed in the suits and proceedings in the courts of vice-admiralty in Her Majesty's possessions abroad, and for the establishment of fees to be allowed and taken in the said courts by the respective judges, officers, and practitioners therein: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that it shall be lawful for His Majesty, with the advice of his privy council, from time to time to make and ordain such rules and regulations as shall be deemed expedient touching the practice to be observed in suits and proceedings in the several courts of vice-admiralty at present or hereafter to be established in any of His Majesty's possessions abroad, and likewise from time to time to make, ordain, and establish tables of fee to be taken or received by the judges, officers, and practitioners in the said courts, for all acts to be done therein, and also from time to time, as shall be found expedient, to alter any such rules, regulations, and fees, and to make any new regulations and table or tables of fees; and that all such rules, regulations, and fees, after the same shall have been so made and established or altered, from time to time be entered or inrolled in the public books or records of the said courts, so far as such practice and fees shall relate or apply to each of such courts respectively.

His Majesty may make regulations and establish fees in the Vice-Admiralty Courts abroad, and alter the same.

Regulations and fees to be inrolled in the respective courts.

[1] S. 24 repeals, amongst other Acts 2 & 3 Wm. IV., c. 51, save as to Her Majesty's possessions in India, but leaves unrepealed any rules, orders, regulations, and table of fees under that Act.

Vice-Admiralty Courts.

The tables of fees to be laid before the House of Commons.

And be it further enacted that a copy of every table of fees so to be from time to time made and established or altered shall be laid before the House of Commons within three calendar months next after the making and establishment or alteration thereof respectively, if Parliament shall be then sitting, and if not, then within one calendar month next after the subsequent meeting of Parliament.—[Vice-Admiralty Courts (Fees) Act, 1832, 2 & 3 Wm. IV, c. 51, s. 2.]

Fees so established to be the only lawful fees.

543 (*2g*). And be it further enacted that the several fees so to be established, and no other, shall, from and after the making and establishment thereof and the entry and inrolment thereof as aforesaid, be deemed and taken to be the lawful fees of the several judges, officers, ministers, and practitioners of the said respective courts; and such fees only shall and may be demanded, reserved, and taken accordingly.—[Vice-Admiralty Courts (Fees) Act, 1832, 2 & 3 Wm. IV, c. 51, s. 3.]

Copies of the regulations and tables of fees to be hung up in each court, &c.

543 (*2h*). And to the intent that all such regulations and fees may be promulgated and publicly made known, be it further enacted that the judge and registrar of every such court shall cause to be kept constantly hung up and preserved in some conspicuous part of every such court, and in the office of the registrar, a copy of the table of fees so to be from time to time ordained and established in such courts respectively, so that the said table may be seen and read by all persons having any business in any such court and office respectively; and that the books or records containing the entries of the said regulation and tables of fees, as the same shall be in force, shall be at all seasonable time open to the inspection of the practitioners and suitors in every such court.—[Vice-Admiralty Courts (Fees) Act, 1832, 2 & 3 Wm. IV, c. 51, s. 4.]

Persons aggrieved may apply to the High Court of Admiralty for taxation of costs.

543 (*2i*). And be it further enacted that in all cases in which proceedings may be had in any of the said vice-admiralty courts, if any person shall feel himself aggrieved by the charges made by any of the officers or practitioners therein, and the allowance thereof by such vice-admiralty court, by reason that such charges are not warranted by the tables hereinbefore mentioned, it shall be lawful for such person or his agent, under the regulations to be established in pursuance of the powers given by this Act, by summary application to the High Court of Admiralty to have the said charges taxed by the authority thereof.—[Vice-Admiralty Courts (Fees) Act, 1832, 2 & 3 Wm. IV, c. 51, s. 5.]

Vice-Admiralty Courts to have jurisdiction in certain maritime causes, though the cause of action did not arise within the local limits of the court.

543 (*2j*). And whereas in certain cases doubts may arise as to the jurisdiction of vice-admiralty courts in His Majesty's possessions abroad, with respect to suits for seamen's wages, pilotage, bottomry, damage to a ship by collision, contempt in breach of the regulations and instructions relating to His Majesty's service at sea, salvage, and droits of admiralty: Be it therefore enacted that in all cases where a ship or vessel, or the master thereof, shall come within the local limits of any vice-admiralty court, it shall be lawful for any person to commence proceedings in any of the suits hereinbefore mentioned

in such vice-admiralty court, notwithstanding the cause of action may have arisen out of the local limits of such court, and to carry on the same in the same manner as if the cause of action had arisen within the said limits.—[Vice-Admiralty Courts (Fees) Act, 1832, 2 & 3 Wm. IV, c. 51, s. 6.] Vice-Admiralty Courts.

543 (2k). Whereas it is requisite that due validity should be given to the judicial acts of surrogates who have executed the offices of judges in the courts of vice-admiralty established in His Majesty's plantations and colonies, during vacancies occasioned by the deaths or resignation or other removals of the said judges, or who also shall hereafter execute the same during such vacation: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that all judicial acts of surrogates having been appointed to act as judges during such vacancies, either by judges of the said courts previously to their removal, or in default of such appointment by the governors of the plantations and colonies in which such courts shall be, shall have the same force and validity, and shall be subject to the same course of appeal, as if the said acts had been done by the authority of judges regularly appointed by the lords commissioners of the admiralty.—[Act of Surrogates (Admiralty) 56 Geo. III., c. 82, s. 1.]* Acts of surrogates appointed by judges or by governors of plantations and colonies shall be valid, &c.

Appeals from Admiralty Courts abroad.

543 (2l). And be it further enacted that from and after the first day of June one thousand eight hundred and thirty-three all appeals or applications in prize suits and in all other suits or proceedings in the courts of admiralty, or vice-admiralty courts, or any other court in the plantations in America and other His Majesty's dominions or elsewhere abroad, which may now by virtue of any law, statute, commission, or usage, be made to the High Court of Admiralty in England, or to the lords commissioners in prize cases, shall be made to His Majesty in Council, and not to the said High Court of Admiralty in England or to such commissioners as aforesaid; and such appeals shall be made in the same manner and from and within such time wherein such appeals might, if this Act had not been passed, have been made to the said High Court of Admiralty or to the lords commissioners in prize cases respectively; and that all laws or statutes now in force with respect to any such appeals or applications shall apply to any appeals to be made in pursuance of this Act to His Majesty in Council.—[Appeals to Judicial Committee Act, 1831, 3 & 4 Wm. IV., c. 41, s. 2.] Appeals from courts of admiralty or vice-admiralty courts abroad, &c., shall be made to the King in Council.

Slave Trade, and its relation to the Admiralty Courts.

543 (2m). And be it further enacted that it shall not be lawful (except in such special cases as are hereinafter mentioned) for any persons to deal or The purchase, sale, or contract for slaves declared

* Repealed, save as regards Her Majesty's possessions in India, 26 & 27 Vic. c. 24, s. 24.

Slave Trade.

unlawful; as also the removal, importation, or exportation of slaves;

trade in, purchase, sell, barter, or transfer, or to contract for the dealing or trading in, purchase, sale, barter, or transfer of slaves, or persons intended to be dealt with as slaves; or to carry away, or remove, or to contract for the carrying away or removing of slaves or other persons, as or in order to their being dealt with as slaves; or to import or bring, or to contract for the importing or bringing into any place whatsoever slaves or other persons, as or in order to their being dealt with as slaves; or to ship, tranship, embark, receive, detain, or confine on board, or to contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being carried away or removed, as or in order to their being dealt with as slaves; or to ship, tranship, embark, receive, detain, or confine on board, or to contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons for the purpose of their being imported or brought into any place whatsoever as or in order to their being dealt with as slaves; or to fit out, man, navigate, equip, despatch, use, employ, let, or take to freight or on hire, or to contract for the fitting out, manning, navigating, equipping, despatching, using, employing, letting, or taking to freight or on hire, any ship, vessel, or boat, in order to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful; or to lend or advance, or become security for the loan or advance, or to contract for the lending or advancing, or becoming security for the loan or advance of money, goods, or effects employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful; or to become guarantee or security, or to contract for the becoming guarantee or security, for agents employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful; or in any other manner to engage or to contract to engage directly or indirectly therein as a partner, agent, or otherwise; or to ship, tranship, lade, receive, or put on board, or to contract, for the shipping, transhipping, lading, receiving, or putting on board of any ship, vessel, or boat, money, goods, or effects to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful; or to take the charge or command, or to navigate or enter and embark on board, or to contract for the taking the charge or command, or for the navigating or entering and embarking on board of any ship, vessel, or boat, as captain, master, mate, petty officer, surgeon, supercargo, seaman, marine or servant, or in any other capacity, knowing that such ship, vessel or boat is actually employed, or is in the same voyage or upon the same occasion, in respect of which they shall so take the charge or command, or navigate or enter and embark, or contract so to do as aforesaid, intended to be employed in accomplishing any of the objects, or the

the fitting out of vessels, or making of loans or guarantees on shipping, of goods for the above purposes;

The serving on board ships employed for slave trade unlawful.

contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful; or to insure or to contract for the insuring of any slaves, or any property, or other subject-matter engaged or employed or intended to be engaged or employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful.—[Slave Trade Act, 1824, 5 Geo. IV, c. 113, s. 2].

Slave Trade.

or the insuring of slaves or slave adventures.

543 (*2a*). And be it further enacted that (except in such special cases as are in and by this Act permitted) if any persons shall deal or trade in, purchase, sell, barter, or transfer, or contract for the dealing or trading in, purchase, sale, barter, or transfer of slaves, or persons intended to be dealt with as slaves; or shall carry away or remove or contract for the carrying away or removing of slaves or other persons, as or in order to their being dealt with as slaves; or shall import or bring or contract for the importing or bringing into any place whatsoever slaves or other persons as or in order to their being dealt with as slaves; or shall ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being carried away or removed, as or in order to their being dealt with as slaves; or to ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons for the purpose of their being imported or brought into any place whatsoever, as or in order to their being dealt with as slaves; then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence the sum of one hundred pounds of lawful money of Great Britain for each and every slave so dealt or traded in, purchased, sold, bartered, or transferred, carried away, removed, imported, brought, shipped, transhipped, embarked, received, detained, or confined on board, or so contracted for as aforesaid; the one moiety thereof to the use of His Majesty, his heirs and successors, and the other moiety to the use of any person who shall inform, sue, and prosecute for the same; and all property or pretended property in such slaves or persons as aforesaid shall also be forfeited, and the said slaves or persons shall and may be seized and prosecuted as hereinafter is mentioned and provided.—[Slave Trade Act, 1824, 5 Geo. IV, c. 113, s. 3].

Penalty for dealing in slaves, or exporting or importing them, &c.

543 (*2b*). And be it further enacted that except in such special cases or for such special purposes as are in and by this Act permitted) if any persons shall fit out, man, navigate, equip, despatch, use, employ, let or take to freight or on hire or contract for the fitting out, manning, navigating, equipping, despatching, using, employing, letting or taking to freight or hire, any ship, vessel, or boat, in order to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful, such ship, vessel or boat together with all her boats, guns, tackle,

Ships fitted out for slave trade to be forfeited.

Slave Trade.

apparel, and furniture, and together likewise with all property, goods, or effects found on board belonging to the owner or owners, part owner or part owners of any such ship, vessel or boat, shall become forfeited, and may and shall be seized and prosecuted as hereinafter is mentioned and provided.—[Slave Trade Act, 1824, 5 Geo. IV, c. 113, s. 4.]

Penalty for shipping goods; effects to be employed in slave trade.

543 (2p). And be it further enacted that (except in such special cases or for such special purposes as are in and by this Act permitted) if any person shall knowingly and wilfully ship, tranship, lade, receive, or put on board, or contract for the shipping, transhipping, lading, receiving, or putting on board of any ship, vessel or boat, any money, goods or effects to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful, then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors shall forfeit and pay for every such offence double the value of all the money, goods, and effects so shipped, transhipped, laden, received, or put on board, or contracted so to be as aforesaid, to be recovered and applied as is hereinafter mentioned and provided.—[Slave Trade Act, 1824, 5 Geo. IV, c. 113, s. 7.]

Subjects of His Majesty, &c., dealing in slaves on the high seas, &c., to be deemed guilty of piracy.

543 (2q). And be it further enacted that if any subject or subjects of His Majesty, or any person or persons residing or being within any of the dominions, forts, settlements, factories, or territories now or hereafter belonging to His Majesty, or being in His Majesty's occupation or possession, or under the Government of the United Company of Merchants of England trading to the East Indies, shall, except in such cases as are in and by this Act permitted, after the first day of January one thousand eight hundred and twenty-five, upon the high seas or in any haven, river, creek, or place where the admiral has jurisdiction, knowingly and wilfully carry away, convey, or remove or aid, or assist in carrying away, conveying, or removing, any person or persons as a slave or slaves, or for the purpose of his, her, or their being imported or brought as a slave or slaves into any island, colony, country, territory or place whatsoever, or for the purpose of his, her, or their being sold, transferred, used, or dealt with as a slave or slaves, or shall after the said first day of January one thousand eight hundred and twenty-five, except in such cases as are in and by this Act permitted, upon the high seas, or within the jurisdiction aforesaid, knowingly and wilfully ship, embark, receive, detain, or confine, or assist in shipping, embarking, receiving, detaining, or confining on board any ship, vessel, or boat, any person or persons for the purpose of his, her, or their being carried away, conveyed, or removed as a slave or slaves, or for the purpose of his, her, or their being imported or brought as a slave or slaves into any island, colony, country, territory, or place whatsoever, or for the purpose of his, her, or their being sold, transferred, used or dealt with as a slave or slaves, then and in every such case the person or persons so offending, shall be deemed and adjudged guilty of piracy, felony, and robbery, and being convicted thereof shall suffer death without benefit of clergy, and loss of lands,

goods, and chattels, as pirates, felons, and robbers upon the seas ought to suffer.—[Slave Trade Act, 1824, 5 Geo. IV, c. 113, s. 9.] Slave Trade.

548 (*2r*). And be it further enacted that (except in such special cases as are in and by this Act permitted or otherwise provided for) if any persons shall deal or trade in, purchase, sell, barter, or transfer, or contract for the dealing or trading in, purchase, sale, barter, or transfer of slaves, or persons, intended to be dealt with as slaves, or shall, otherwise than as aforesaid, carry away or remove, or contract for the carrying away or removing of slaves or other persons, as or in order to their being dealt with as slaves, or shall import or bring, or contract for the importing or bringing into any place whatsoever slaves or other persons, as or in order to their being dealt with as slaves, or shall, otherwise than as aforesaid, ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other person for the purpose of their being carried away or removed, as or in order to their being dealt with as slaves; or shall ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves, or other persons for the purpose of their being imported or brought into any place whatsoever, as or in order to their being dealt with as slaves; or shall fit out, man, navigate, equip, despatch, use, employ, let or take to freight, or on hire, or contract for the fitting out, manning, navigating, equipping, despatching, using, employing, letting or taking to freight or on hire any ship, vessel, or boat, in order to accomplish any of the objects or of the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful, or shall knowingly, wilfully lend or advance, or become security for the loan or advance or contract for the lending or advancing, or becoming security for the loan or advance of money, goods, or effects employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful; or shall knowingly or wilfully become guarantee or security or contract for the becoming guarantee or security for agents employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which contracts have hereinbefore been declared unlawful, or in any other manner to engage or to contract to engage directly or indirectly therein as a partner, agent, or otherwise; or shall knowingly and wilfully ship, tranship, lade, receive, or put on board, or contract for the shipping, transhipping, lading, receiving, or putting on board of any ship, vessel, or boat, money, goods, or effects to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful; or shall take the charge or command, or navigate, or enter and embark on board, or contract for the taking the charge or command, or for the navigating or entering and embarking on board of any ship, vessel, or boat, as captain, master, mate, surgeon, or supercargo, knowing that such ship, vessel, or boat is actually em-

Persons dealing in slaves or removing or conveying or importing slaves.

or fitting out slave ships.

or shipping goods, &c., to be employed in the slave trade.

or serving on board slave ships as captain, master, surgeon, &c.

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plored or is in the same voyage or upon the same occasion in respect of which they shall so take the charge or command, or navigate or enter and embark, or contract so to do as aforesaid, intended to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful; or shall knowingly and wilfully insure or contract for the insuring of any slaves, or any property or other subject-matter engaged or employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful; or shall wilfully and fraudulently forge or counterfeit any certificate, certificate of valuation, sentence or decree of condemnation or restitution, copy of sentence or decree of condemnation or restitution, or any receipt (such receipts being required by this Act), or any part of such certificate, certificate of valuation, sentence or decree of condemnation or restitution, copy of sentence or decree of condemnation or restitution, or receipt as aforesaid; or shall knowingly and wilfully utter or publish the same, knowing it to be forged or counterfeited, with intent to defraud His Majesty, his heirs or successors, or any other person or persons whatsoever, or any body politic or corporate; then and in every such case the person or persons so offending, and their procurers, counsellors, aiders, and abettors, shall be and are hereby declared to be felons, and shall be transported beyond seas for a term not exceeding fourteen years, or shall be confined and kept to hard labour for a term not exceeding five years, nor less than three years, at the discretion of the court before whom such offender or offenders shall be tried and convicted.—[Slave Trade Act, 1824, 5 Geo. IV, c. 113, s. 10.]

Or insuring slaves or slave adventures;

or forging instruments relating to the slave laws;

declared guilty of felony, &c.

543 (*2s*). And be it further enacted that (except in such special cases or for such special purposes as are in and by this Act expressly permitted) if any persons shall enter and embark on board, or contract for the entering and embarking on board of any ship, vessel, or boat, as petty officer, seaman, marine, or servant, or in any other capacity not hereinbefore specifically mentioned, knowing that such ship, vessel, or boat is actually employed or is in the same voyage or upon the same occasion in respect of which they shall so enter and embark on board, or contract so to do as aforesaid, intended to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have hereinbefore been declared unlawful, then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall be and they are hereby declared to be guilty of a misdemeanor only, and shall be punished by imprisonment for a term not exceeding two years.—[Slave Trade Act, 1824, 5 Geo. IV, c. 113, s. 11.]

Seamen, &c., serving on board such ships declared guilty of a misdemeanor, &c.

543 (*2t*). Provided always, and be it further enacted, that if any person or persons offending as a petty officer, seaman, marine, or servant, against any of the provisions of this Act, shall, within two years after the offence committed, give information on oath before any competent magistrate against any owner or part owner, or any captain, master, mate, surgeon, or supercargo of any ship or vessel, who shall have committed any offence against this Act, and

Offenders giving information against owners of vessels, &c., to be exempted from penalties.

shall give evidence on oath against such owner or part owner, captain, master, mate, surgeon, or supercargo, before any magistrate or court before whom such offender may be tried; or if such person or persons so offending shall give information to any of His Majesty's ambassadors, ministers, plenipotentiary, envoys, chargés d'affaires, consuls, residents, or other agents, so that any person or persons owning such ship or vessel, or navigating or taking charge of the same, as captain, master, mate, surgeon, or supercargo, may be apprehended; such person or persons so giving information and evidence shall not be liable to any of the pains or penalties under this Act incurred in respect of his offence, and His Majesty's ambassadors, ministers, plenipotentiary, envoys, chargés d'affaires, consuls, residents, or other agents, are hereby required to receive any such information as aforesaid, and to transmit the particulars thereof, without delay, to one of His Majesty's principal Secretaries of State, and to transmit copies of the same to the commanders of His Majesty's ships, or vessels, then being in the said port or place.—[Slave Trade Act, 1824, 5 Geo. IV, c. 113, s. 40.]

Slave Trade.

543 (*2u*). And be it further enacted that all action, suits, bills, indictments, or informations, for the recovery of the penalties or forfeitures under this Act, may be commenced, had, brought, sued, exhibited, or prosecuted at any time within five years after the offence committed, by reason whereof such penalty or forfeiture shall be incurred: Provided always that where any slave or slaves have been or shall at any time have been illegally imported, nothing herein contained shall extend to prevent proceeding being commenced to obtain the condemnation or forfeiture thereof, but that the said slave or slaves so illegally imported shall and may be condemned and forfeited at any time after such illegal importation.—[Slave Trade Act, 1824, 5 Geo. IV, c. 113, s. 47.]

Limitation of suits for recovery of penalties.

No limitation to suits for condemnation and forfeiture of slaves illegally imported.

Evidence taken abroad to be transmitted to England.

543 (*2v*). And whereas the provisions heretofore made for the hearing and determining in England of offences committed against the Acts for the abolition of the slave trade in places out of this United Kingdom have been found ineffectual by reason of the difficulty of proving in this kingdom matters and things done elsewhere: Be it enacted that in all cases of indictment or information laid or exhibited in the Court of Queen's Bench for misdemeanors or offences committed against the said Acts or against this present Act in any places out of the United Kingdom, and within any British colony, settlement, plantation, or territory, it shall and may be lawful for Her Majesty's said court, upon motion to be made on behalf of the prosecutor or defendant, to award a writ or writs of mandamus, requiring the chief justice or other chief judicial officer in such colony, settlement, plantation, or territory, who are hereby respectively authorised and required accordingly, to hold a court, with all convenient speed, for the examination of witnesses and receiving other proofs concerning the matters charged in such indictments or in-

Evidence may be taken abroad, and transmitted to the court of Queen's Bench, on indictments, &c., for offences under recited Acts and this Act.

Slave Trade.

formations respectively, and in the meantime to cause public notice to be given of the holding of such courts, and summonses to be issued for the attendances of witnesses and of agents and counsel of the parties; and such examination as aforesaid shall be then and there openly and publicly taken in the said court *vivâ voce* upon the respective oaths of the persons examined, and be reduced to writing, and be sent to Her Majesty in her Court of Queen's Bench (in manner set forth and prescribed in an Act passed in the thirteenth year of George the Third, chapter sixty-three, intituled "An Act for establishing "certain regulations for the better management of the affairs of the East "India Company as well in India as in Europe"); and such depositions, being duly taken and returned according to the true intent and meaning of this Act, shall be allowed and read, and shall be deemed as good and competent evidence as if such witnesses had been present and sworn and examined *vivâ voce* at any trial for such misdemeanors and offences as aforesaid in Her Majesty's said Court of Queen's Bench, any law or usage to the contrary thereof notwithstanding.—[Slave Trade Act, 1843, 6 & 7 Vic., c. 98, s. 4.]

13 Geo. III. c. 63.

Powers of High Court for purpose of obtaining evidence.

543 (*2v*). For the purpose of obtaining evidence of the commission of the offences made punishable by this Act or any Act of Parliament relating to slavery or the slave trade, every High Court in India shall have, as respects the persons in the first section[1] of this Act referred to, and as respects any British colony, settlement, plantation, or territory, wherein any witness may be the same powers as are conferred on the Court of Queen's Bench by the fourth section of an Act made and passed in the session of Parliament holden in the sixth and seventh years of Her Majesty's reign, chapter ninety-eight, with respect to such British colonies, settlements, plantations, and territories as are therein referred to.

And every High Court may, if it thinks fit, issue such commission as is mentioned in section 330 of Act X of 1872, passed by the Governor General of India in Council, and called "The Code of Criminal Procedure," to any Consular officer of Her Majesty in the parts of Asia or Africa specified in any Order of Her Majesty in Council under section 1 of this Act, or to any political officer or agent of the Governor General of India in Council or of any Indian Government in the said parts or in the dominions of any prince or state in India in alliance with Her Majesty, or to any magistrate in Her Majesty's Indian dominions.

And the depositions taken by virtue of the said powers or under such commission shall be deemed by every court of original or appellate jurisdiction in India in any trial or proceeding under this Act or any Act of Parliament relating to slavery or the slave trade to be as good and competent evidence as if the witnesses deposing had been present and examined *vivâ voce*

[1] See s. 267*a*.

and had made oath or affirmation as required by law.—[Slave Trade Act, 1876, 39 & 40 Vic., c. 46, s. 3.]

Slave Trade.

543 (*2x*). And whereas by certain Orders of Her Majesty in Council made by virtue of an Act made and passed in the session of Parliament holden in the sixth and seventh years of Her Majesty's reign, chapter ninety-four, which Orders are dated respectively the ninth August one thousand eight hundred and sixty-six and the fourth November one thousand eight hundred and sixty-seven, it is ordered that the provisions of such Orders relating to British subjects shall extend and apply to all subjects of Her Majesty, whether by birth or by naturalization, and also to all persons enjoying Her Majesty's protection in the several dominions mentioned in such Orders respectively:

Subjects of certain Indian princes made amenable to certain Orders in Council.

It is hereby declared and enacted that for the purposes of the said Orders in Council, and of any Orders in Council which Her Majesty may hereafter think fit to make by virtue of the said Act of the sixth and seventh years of Her Majesty's reign, chapter ninety-four, all subjects of the several princes and states in India in alliance with Her Majesty, residing and being in the several dominions comprised in such Orders respectively, are and shall be deemed to be persons enjoying Her Majesty's protection therein.—[Slave Trade Act, 1876,[1] 39 & 40 Vic., c. 46, s. 4.]

Seizure of Slave Ships.

543 (*2y*). Where a vessel is, on reasonable grounds, suspected of being engaged in or fitted out for the slave trade, it shall (subject, in the case either of the vessel of a foreign state, or of the commander or officer of a cruiser of a foreign state, to the limitations, restrictions, and regulations, if any, applicable thereto contained in any existing slave trade treaty made with such state) be lawful—

Visitation and seizure by cruisers, &c., of suspected slave ships.

(*a*) if the vessel is a British vessel, or is engaged in the slave trade within British jurisdiction, or is not a vessel of a foreign state, for any commander or officer of any of Her Majesty's ships, for any officer bearing Her Majesty's commission in the army or navy, for any officer of Her Majesty's Customs in the United Kingdom, Channel Islands or Isle of Man, for the governor of a British possession, or any person authorised by any such governor, and for any commander or officer of any cruiser of a foreign state authorised in pursuance of any existing slave trade treaty; and

(*b*) if the vessel is the vessel of a foreign state, for any commander or officer of any of Her Majesty's ships, when duly authorised in

[1] Nothing in this Act is to affect any Order made or to be made by Her Majesty in Council by virtue of 6 & 7 Vic., c. 94.—[39 & 40 Vic., c. 46, s. 6.]

Slave Trade.

that behalf, in pursuance of any treaty with that state, and for any commander or officer of any cruiser of that foreign state,

To visit and seize and detain such vessel, and to seize and detain any person found detained or reasonably suspected of having been detained as a slave, for the purpose of the slave trade, on board any such vessel,[1] and to carry away such vessel and person, together with the master and all persons, goods, and effects on board any such vessel, for the purpose of bringing in such vessel person, goods, and effects for adjudication.

All vessels, slaves, persons, goods, and effects which may be forfeited under the enactments with which this Act is to be construed as one, as hereinafter mentioned, may be visited, seized, and detained by any commander, officer, governor, or person authorised by this section to seize a British vessel. —[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 3.]

Vessels equipped for traffic in slaves to be deemed engaged in the slave trade.

543 (*2z*). Where any of the particulars mentioned in the first schedule to this Act are found in the equipment or on board of any vessel visited, seized or detained in pursuance of this Act, such vessel shall, unless the contrary be proved, be deemed to be fitted out for the purposes of and engaged in the slave trade, and in such case, even though the vessel is restored, no damages shall be awarded against the seizor under this Act in respect of such visitation, seizure or detention, or otherwise upon such restoration:

Provided that this section shall not extend to the vessel of any foreign state except so far as may be consistent with the treaty made with such state.

SCHEDULE I.

Equipments which are prima facie Evidence of a Vessel being engaged in the Slave Trade.

First.—Hatches with open gratings, instead of the close hatches which are usual in merchant vessels.

Secondly.—Divisions or bulkheads in the hold or on deck more numerous than are necessary for vessels engaged in lawful trade.

Thirdly.—Spare plank fitted for being laid down as a second or slave deck.

Fourthly.—Shackles, bolts, or handcuffs.

Fifthly.—A larger quantity of water in casks or in tanks than is requisite for the consumption of the crew of the vessel as a merchant vessel.

Sixthly.—An extraordinary number of water casks or of other vessels for holding liquid unless the master shall produce a certificate from the custom-house at the place from which he cleared outwards, stating that a sufficient security had been given by the owners of such vessel that such extra quantity of casks or of other vessels should only be used for the reception of plain oil, or for other purposes of lawful commerce.

Seventhly.—A greater quantity of mess tubs or kids than are requisite for the use of the crew of the vessels as a merchant vessel.

[1] This does not justify a British officer in seizing slaves on board a British vessel within the waters of a foreign state, without the consent, by treaty or otherwise, of such state, even in cases where the vessel is engaged in, or fitted out for the slave trade.—[Opinion of law-officers of the Crown and Dr. Deane, 15th January, 1881.]

Eighthly.—A boiler or other cooking apparatus of an unusual size, and larger or fitted for being or capable of being made larger than requisite for the use of the crew of the vessel as a merchant vessel, or more than one boiler or other cooking apparatus of the ordinary size. *Slave Trade.*

Ninthly.—An extraordinary quantity either of rice or of the flour of Brazil, manioc, or cassada, commonly called farinha, of maize or of Indian corn or of any other article of food.

[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 4.]

Courts having Jurisdiction over Slave matters.

Courts.

543 (*3a*). The High Court of Admiralty of England and every vice-admiralty court in Her Majesty's dominions out of the United Kingdom shall have jurisdiction to try and condemn or restore any vessel, slave, goods, and effects, alleged to be seized, detained, or forfeited, in pursuance of this Act, and on restoring the same to award such damages in respect of the visitation, seizure, and detention of such vessel, goods, and effects, and of any person on board such vessel, and in respect of any act or thing done in relation to such visitation, seizure, or detention, or in respect of any of such matters, and in any case to make such order as to costs as, subject to the provisions of this Act and of any existing slave trade treaty, the court may think just. *Jurisdiction of courts in regard to slave vessels, slaves, goods, and effects.*

Provided that nothing in this section shall give to any court any jurisdiction inconsistent with any existing slave trade treaty over a vessel which is shown to such court to be the vessel of any foreign state and which has not been engaged within British jurisdiction in the slave trade, but where any vessel of a foreign state is liable to be condemned by a British slave court, such court shall have the same jurisdiction as if she were a British vessel.

Each of the said courts shall have the same jurisdiction in regard to any person who has been seized, either at sea or on land, on the ground that he has or is suspected to have been detained as a slave, for the purpose of the slave trade, as the court would have under this section if he had been so detained on board a vessel that was seized and brought in for adjudication.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 5.]

543 (*3b*). Where any vessel or slave seized by the commander or officer of the cruiser of any foreign state is brought in for adjudication in a British slave court, all proceedings for the condemnation of such vessel and slave, and the goods and effects on board such vessel, shall be taken in the name of Her Majesty by some person duly authorised in that behalf.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 6.] *Proceedings upon seizure by a foreigner.*

Mixed Courts.

543 (*3c*). Where any existing slave trade treaty contains provisions for the time being in force for the appointment of any mixed court or commission for *Appointment of judges, arbitrators,*

Slave Trade.

Secretary, &c., to mixed courts and commissioners.

deciding cases under such treaty, it shall be lawful for Her Majesty from time to time to appoint such commissioners, judges, arbitrators, secretary, registrar, and other officers as are mentioned in such provisions.

There shall be paid to every commissioner, judge, arbitrator, secretary, registrar, and other officer so appointed, such salary as the Treasury may from time to time direct.

In case of the death, or sickness or absence either on leave or from any other lawful impediment, of any such commissioner, judge, arbitrator, secretary, registrar, or other officer, whether British or not, the vacancy shall be temporarily filled in manner provided by the treaty.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 7.]

Regulations as to powers of mixed courts.

543 (*3d*). The regulations contained in any existing slave trade treaty for the time being in force, with respect to any mixed court or commission, shall have effect as if they were enacted in this Act, and such court or commission shall have all necessary jurisdiction for the purpose of carrying into effect any treaty referring to them, and in particular shall have jurisdiction to try, condemn, and restore British vessels seized in pursuance of such treaty on suspicion of being engaged in the slave trade, and shall, for the purpose of their jurisdiction, have the same power as any vice-admiralty court in Her Majesty's dominions has, and may accordingly take evidence, administer oaths, summon and enforce the attendance of witnesses, and require and enforce the production of documents in like manner as any such court.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 8.]

Disposal of Vessels and Slaves.

Disposal of condemned vessels.

543 (*3e*). A vessel seized in pursuance of this Act, when condemned by a slave court, may be taken into Her Majesty's service upon payment of such sum as the Admiralty deem to be a proper price for the same (which sum is in this Act called the appraised value of such vessel), or, if not so taken, shall be broken up, and the materials thereof shall be publicly sold in separate parts:

Provided that nothing herein shall prejudice the right of the Government of any foreign state, under any treaty, to require such vessel to be broken up, or to take such vessel into its service upon payment of a sum fixed in accordance with such treaty, and any sum paid by the government of a foreign state for a vessel taken into its service after condemnation by a slave court shall be deemed, for the purposes of this Act, to be the appraised value of the vessel.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 9.]

Disposal of slaves.

543 (*3f*). Where any slaves are seized in pursuance of this Act, they shall, for the purpose only of seizure, prosecution, and condemnation, be deemed to be property, and shall be condemned as forfeited to the sole use of Her Majesty for the purpose only of divesting all other right or interest therein, and shall not be treated as slaves, but shall be provided for, pending the

proceedings for their condemnation, in such manner, and shall on condemnation be disposed of in such manner, or delivered over to such persons, as the court having cognizance of the case may adjudge, subject to the regulations (if any) which are from time to time made by the Treasury; and the Treasury may from time to time make, alter, and revoke regulations for this purpose so that they be consistent with any provisions in this behalf contained in any existing slave trade treaty.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 10.]

Bounties.

543 (30). Where a vessel (whether British or not) or slave, goods or effects, seized in pursuance of this Act by any commander or officer of any of Her Majesty's ships have been condemned by a slave court, there shall be paid to the commander, officers, and crew of such ships the following sums:—

(1) A slave bounty of five pounds for every slave so condemned who is delivered over; or, if the commander of the ships elects, a tonnage bounty of four pounds for every ton of the tonnage of the vessel condemned;

(2) That part to which Her Majesty is entitled of the appraised value of the vessel condemned, or, if such vessel was broken up and the materials thereof publicly sold in separate parts, of the net proceeds of such sale after deducting the charges of prosecution and

(3) Where the condemned vessel

(a) was brought into port and was broken up in pursuance of the order of the slave court, and the materials thereof publicly sold in separate parts; or

(b) was abandoned or destroyed prior to condemnation, and the slave court by the decree of condemnation declared that, after full consideration by the court of the circumstances of the case, the seizors had satisfied the court that such abandonment or destruction was inevitable, or otherwise under the circumstances proper and justifiable,

a further tonnage bounty at the rate of thirty shillings for every ton of the tonnage of the vessel; and

(4) The net proceeds to which Her Majesty is entitled (after deducting the charges of prosecution) of any such goods and effects which the slave court ordered to be sold.

Where any slave so condemned is not delivered over in consequence of death, sickness, or other inevitable circumstances, the Treasury may, if they think fit, pay to the seizors of such slave one moiety of the slave bounty which would have been due in respect of such slave if he had been delivered over. —[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 11.]

548 (34). Where any vessel, slave, goods, or effects seized in pursuance of this Act otherwise than by the commander or officer of one of Her Majesty's

Slave Trade.

Slave, or goods not seized by cruisers.

ships, or of the cruiser of a foreign state, have been condemned by a slave court, there shall be paid the following sums:—

(1) Two-thirds of the appraised value of the vessel or (if the vessel was broken up and the materials thereof publicly sold in separate parts) of the net proceeds of such sale, and two-thirds of the net proceeds of such goods and effects (after deducting from such appraised value or net proceeds the charges of prosecution) for the use of Her Majesty to such persons as the Treasury may from time to time appoint, to be carried to the Consolidated Fund:

(2) The remaining third part of the said appraised value or net proceeds of the vessel and of the net proceeds of such goods and effects to the person who lawfully seized and prosecuted the ship, goods, and effects respectively to condemnation:

(3) For every slave so condemned who is delivered over, a slave bounty of five pounds to the person who prosecuted the same to condemnation.

Where any slave so condemned is not delivered over in consequence of death, sickness, or other inevitable circumstances, the Treasury may, if they think fit, pay in respect of such slave one moiety of the slave bounty which would have been due in respect of such slave if he had been delivered over.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 12.]

Payment of proceeds of vessels, &c., when seized by a foreign cruiser.

543 (*3d*). Where any vessel, goods, or effects have been seized in pursuance of this Act by the commander or officer of a cruiser of any foreign state, and been condemned by a British slave court, such portion of the appraised value of the vessel, or (if the vessel was broken up and the materials thereof publicly sold in separate parts) of the net proceeds of such sale, and of the net proceeds of the goods and effects, as is, under any treaty with such state, payable to the seizors, shall be paid to such person as the Treasury may direct, to be disposed of in accordance with such treaty.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 13.]

Regulations as to payment of bounty.

543 (*3f*). In order to obtain payment of the bounty, there shall be produced to the Treasury the following evidence, or such other evidence as the Treasury may deem sufficient; namely,

(*a*) a copy, duly certified, of the decree of condemnation of the vessel or slave:

(*b*) if any tonnage bounty is claimed, a certificate from some person authorised for the time being to act as a registrar of British ships of the dimensions and tonnage of the vessel:

(*c*) if a slave bounty is claimed, a certificate from the person appointed to receive the slaves of the number of slaves condemned and delivered over.

For the purpose of bounty the tonnage of a vessel shall be calculated and ascertained in the like manner in which, for the time being, the tonnage of a

vessel is calculated and ascertained for the purpose of registering the same as a British vessel, or, if the same cannot be satisfactorily ascertained in that manner, shall be ascertained in such manner as the Treasury may consider satisfactory.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 14.]

Slave Trade.

543 (*3k*). Where any visitation, seizure, detention, or prosecution purports to have been made or instituted in pursuance of this Act, the Treasury when required under any treaty shall, and in any other case may, if they think fit, pay the whole or any part of any costs, expenses, compensation, and damages which may have been awarded against the person making or instituting such visitation, seizure, detention, or prosecution, or any costs and expenses which may have been incurred in respect of the same, or on account of any person on board any vessel so visited, seized, or detained; but nothing in this section shall exempt the commander or officer of the ship or other person by whom the visitation, seizure, detention, or prosecution was made or instituted from his liability to make good any sum so paid when required by the Treasury so to do, and when any such commander or officer, or other person serving under the Admiralty, or any person serving under any other department of the Government, is so required to make good any sum, that sum shall, if the Treasury so direct, be deducted by the Admiralty or other department of the Government, under whom such person is serving, from any payment to which such commander, officer, or person is entitled on account of salary, pay, prize, or bounty.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 15.]

Payment by Treasury of costs, damages, and expenses.

543 (*3l*). The bounties and all other sums payable by the Treasury in pursuance of this Act shall be paid out of moneys provided by Parliament for the purpose.

Payment and distribution of bounties and other sums. 27 & 28 Vic., c. 24.

The provisions of "the Naval Agency and Distribution Act, 1864," shall apply to all money payable to the commanders, officers, and crews of Her Majesty's ships in pursuance of this Act.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 16.]

Miscellaneous.

543 (*3m*). All persons authorised to make seizures under this Act shall, in making and prosecuting any such seizure, have the benefit of all the protection granted to persons authorised to make seizures under any Act for the time being in force relating to Her Majesty's Customs in the United Kingdom, in like manner as if the enactments granting such protection were herein enacted, and in terms made applicable thereto.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 17.]

Protection of persons authorised to seize.

543 (*3n*). In either of the following cases, namely—

(*a*) where any proceeding has been instituted in any slave court for the condemnation or restitution of any vessel, slave, goods, or effects purporting to have been seized in pursuance of this Act and is still pending; or

Pendency of suit or decree a bar to proceeding for recovery of vessel, damages, &c.

Slave Trade.

(*b*) where any vessel, slave, goods, or effects purporting to have been seized in pursuance of this Act have been condemned or restored, or any other final judgment has been pronounced thereon by any slave court,

the pendency of such proceeding, or the condemnation or restitution, or other final judgment thereon, as the case may be, shall be a complete bar to every legal proceeding whatever for the recovery of such vessel, slave, goods, or effects, or of damages for any costs, expenses, loss, or injury sustained by any person by or in consequence of the visitation, seizure, or detention of such vessel, slave, goods, or effects, or of any person on board such vessel, or by or in consequence of any act or thing done in relation to such visitation, seizure, or detention, or in pursuance of this Act or any existing slave trade treaty, and may be pleaded in bar, or given in evidence under the general issue.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 18.]

Power of High Court of Admiralty of England as to hearing, reviewing and enforcing decrees, &c.

543 (*3o*). The High Court of Admiralty of England shall have jurisdiction to hear and determine any question arising with respect to the right of any person to any payment in pursuance of this Act in respect of any condemned vessel, slave, goods, or effects, and any question of joint capture or seizure which may arise in respect of any vessel, slave, goods, or effects seized in pursuance of this Act, and also as well to review as to enforce any decree, declaration, or order of any British slave court made in pursuance of this Act.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 19.]

Review of taxation by registrar of Court of Admiralty.

543 (*3p*). The registrar of the High Court of Admiralty of England may, on the application of any person aggrieved, or of the Treasury, tax or review the taxation of any costs, charges, or expenses incurred or alleged to be incurred in any proceeding taken in any British slave court, or in any mixed commission or court in Her Majesty's dominions, and shall for this purpose have the same jurisdiction and powers as he has in the taxation of any costs, charges, or expenses incurred in any proceeding in the High Court of Admiralty.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 20.]

Appeal by Treasury.

543 (*3q*). The Treasury may appeal from any decree, order, or declaration which is made by any British slave court in pursuance of this Act and involves the payment by the Treasury of any bounty, costs, expenses, compensation, damages, or other moneys in like manner as if they were parties to the proceeding in which such decree or declaration was made.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 21.]

Prosecution for false evidence.

543 (*3r*). Any person who wilfully gives false evidence in any proceeding taken in pursuance of this Act in any slave court shall be guilty of an offence against this Act, and shall be liable to the like penalty as if he had been guilty of perjury, or in a British possession, of the offence, by whatever name called, which if committed in England would be perjury.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 22.]

Return by registrar.

543 (*3s*). The registrar of every British slave court, and if appointed by Her Majesty, of every other slave court, shall from time to time make returns of

the cases adjudged in such court in pursuance of this Act, at such times and in such form and containing such particulars as may be from time to time directed by any rule established with respect to such court under the Vice-Admiralty Courts Act, 1863, or if there is no such rule by Order in Council.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 23.]

Slave Trade.

543 (*3t*). This Act shall be construed as one with the enactments of the Slave Trade Act, 1824,[1] and any enactments amending the same, so far as they are in force at the time of the passing of this Act, and are not repealed by this Act; and the expression "this Act," when used in this Act, shall include those enactments.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 24.]

Incorporation with unrepealed portions of 5 Geo. IV, c. 113.

543 (*3u*). All pecuniary forfeitures and penalties imposed by the said enactments, with which this Act is to be construed as one, may be sued for, prosecuted, and recovered in any court of record or of vice-admiralty in any part of Her Majesty's dominions wherein the offence was committed, or where the offender may be, in like manner as any penalty or forfeiture incurred in the United Kingdom under any Act for the time being in force relating to Her Majesty's Customs, or (in the case of the High Court of Admiralty or of a court of vice-admiralty) in like manner as any vessel seized in pursuance of this Act.

Recovery of forfeitures under 5 Geo. IV, c. 113.

Such pecuniary penalties and forfeitures shall, subject to the express provisions of the said enactments, be paid and applied in like manner as the net proceeds of a vessel seized otherwise than by the commander or officer of one of Her Majesty's ships, or of the cruiser of a foreign state.—[Slave Trade Act, 1873, 36 & 37 Vic., c. 88, s. 25.]

543 (*3v*). Any offence against this Act or the said enactments with which this Act is to be construed as one, or otherwise in connexion with the slave trade, shall for all purposes of and incidental to the trial and punishment of a person guilty of such offence, and all proceedings and matters preliminary and incidental to and consequential on such trial and punishment, and for all purposes of and incidental to the jurisdiction of any court, constable, and officer with reference to such offence, be deemed to have been committed either in the place in which the offence was committed, or in the county of Middlesex, or in any place in which the person guilty of the offence may for the time being be, either in Her Majesty's dominions, or in any foreign port or place in which Her Majesty has jurisdiction; and the offence may be described in any indictment or other document relating thereto as having been committed at the place where it was wholly or partly committed, or as having been committed on the high seas or out of Her Majesty's dominions, and the venue or local description in the margin may be that of the place in which the trial is held.

Jurisdiction of court over offences under 5 Geo. IV, c. 113.

Where any such offence is commenced at one place and completed at

[1] See s. 543 (*2m*) *et seq.*

West Africa.

islands of Zanzibar and Madagascar and the Comoro islands, Her Majesty may by Order in Council direct that as from such date, not being earlier than the date of the treaty, as may be specified in the order, such treaty shall be deemed, and thereupon (as from the said date, or if no date is specified, as from the date of such order) such treaty shall be deemed to be an existing East African slave trade treaty within the meaning of this Act, and the provisions of this Act shall apply and be construed accordingly.

Her Majesty may by such order, or any subsequent order referring to the same treaty, render the application of this Act subject to such conditions, exceptions, and qualifications as may be deemed expedient, and limit or exclude the jurisdiction of any of the East African courts.

Her Majesty may by such order, or any subsequent order referring to the same treaty, direct that any court, Consul, or person authorised by or in pursuance of an Order in Council to exercise within the dominions of the foreign state with whom the treaty is made, jurisdiction in matters relative to the slave trade shall, subject to the conditions, exceptions, and limitations, if any, contained in the order, exercise all the jurisdiction conferred by this Act on the East African courts, and such court, Consul, or person when exercising such jurisdiction, shall be deemed to be one of the East African courts within the meaning of this Act.

Every such order shall recite or embody the terms of the treaty, so far as they relate to the slave trade, and shall be laid before both houses of Parliament within six weeks after it is made, or, if Parliament be not then sitting, within six weeks after the then next meeting of Parliament, and shall also be published in the *London Gazette*.

A treaty, whether made before or after the passing of this Act, which ceases to be in force, shall cease to be an existing East African slave trade treaty within the meaning of this Act.—[Slave Trade (East African Courts) Act, 1873, 36 & 37 Vic., c. 59, s. 7.]

Amendment of 36 & 37 Vic., c. 59, s. 7, as to Africa to which the Act applies.

543 (*d.*) Whereas by section 7[1] of the Slave Trade (East African Courts) Act, 1873, Her Majesty is authorised by Order in Council to direct that a treaty in relation to the slave trade made by or on behalf of Her Majesty with any of the foreign states therein mentioned in Arabia or Africa shall be deemed to be an existing East African slave trade treaty within the meaning of the above-mentioned Act:

And whereas doubts have arisen as to whether the said section applies to a treaty with the government of Egypt, and it is expedient to remove such doubts: Be it therefore enacted as follows:

36 & 37 Vic., c. 59.

A treaty in relation to the slave trade made either before or after the passing of this Act by or on behalf of Her Majesty with the government of Egypt shall be deemed to be a treaty in relation to the slave trade to which section 7 of the Slave Trade (East African Courts) Act, 1873, applies,

[1] See s. 542 (*c*).

and Orders in Council in relation to such treaty may be made accordingly in pursuance of the said section.—[Slave Trade (East African Courts) Act, 1879, 42 & 43 Vic., c. 38, s. 3.]

Slave Trade.

Foreign Jurisdiction.

Foreign Jurisdiction.

543 (*4e*). Whereas by treaty, capitulation, grant, usage, sufferage, and other lawful means, Her Majesty hath power and jurisdiction within divers countries and places out of Her Majesty's dominions: And whereas doubts have arisen how far the exercise of such power and jurisdiction is controlled by and dependent on the laws and customs of this realm, and it is expedient that such doubts should be removed: Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that it is and shall be lawful for Her Majesty to hold, exercise, and enjoy any power or jurisdiction which Her Majesty now hath or may at any time hereafter have within any country or place out of Her Majesty's dominions, in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory.

The power acquired by Her Majesty in countries out of Her dominions shall be held on the same terms as if acquired by conquest or cession of territory.

And be it enacted that every act, matter, and thing which may at any time be done, in pursuance of any such power or jurisdiction of Her Majesty, in any country or place out of Her Majesty's dominions, shall, in all courts ecclesiastical and temporal and elsewhere within Her Majesty's dominions, be and be deemed and adjudged to be, in all cases and to all intents and purposes whatsoever, as valid and effectual as though the same had been done according to the local law then in force within such country or place.—[Foreign Jurisdiction Act, 1843, 6 & 7 Vic., c. 94, s. 2.]

Acts done in pursuance of such power to be of the same effect as if done under local laws.

543 (*4f*). And be it enacted that if in any suit or other proceedings, whether civil or criminal, in any court ecclesiastical or temporal within Her Majesty's dominions, any issue or question of law or of fact shall arise for the due determination whereof it shall, in the opinion of the judge or judges of such court, be necessary to produce evidence of the existence of any such power or jurisdiction as aforesaid, or of the extent thereof, it shall be lawful for the judge or judges of any such court, and he or they are hereby authorised to transmit, under his or their hand and seal or hands and seals, to one of Her Majesty's principal Secretaries of State, questions by him or them properly framed respecting such of the matters aforesaid as it may be necessary to ascertain in order to the due determination of any such issue or question as aforesaid; and such Secretary of State is hereby empowered and required, within a reasonable time in that behalf, to cause proper and sufficient answers to be returned to all such questions, and to be directed to the said judge or judges, or their successors; and such answers shall, upon production thereof,

Courts authorised to procure evidence of the existence of such power by application to Secretary of State.

Miscellaneous. (Coasting Trade.)

at any ports of despatch or destination, or at any intermediate ports at which she touches for the purpose of receiving goods or passengers.

Such pass shall be valid throughout British India, or for such ports only as may be specified therein.

Any such general pass may be revoked by order of the chief Customs authority by whom the grant thereof was authorised, by the notice in writing under the hand of such authority, delivered to the master or to the owner of such steam-vessel, or to any of the crew on board.—[Sea Customs Act, 1878—Act VIII of 1878, s. 164.]

Rules respecting cargo-books to be kept by masters of coasting vessels.

544 (*li*). The chief Customs authority may direct that the master of any coasting vessel which is square-rigged or propelled by steam shall keep, or cause to be kept, a cargo-book, stating the name of the master, the vessel, the port to which she belongs, and the port to which on each voyage she is bound.

At every port of lading such master shall enter, or cause to be entered, in such book the name of such port, and an account of all goods there taken on board of such vessel, with a description of the packages, and the quantities and descriptions of the goods, contained therein or stowed loose, and the names of the respective shippers and consignees in so far as such particulars are known to him.

At every port of discharge of any such goods such master shall enter, or cause to be entered, in such book the respective days on which such goods or any of them are delivered out of such vessel.

The respective times of departure from every port of lading, and of arrival at every port of discharge, shall in like manner be duly entered.

Every such master shall, on demand, produce his cargo-book for the inspection of any officer of Customs, and such officer shall be at liberty to make any note or remark therein.

The chief Customs authority may, in the case of any vessel the master whereof has been directed to keep a cargo-book under this section, dispense with the manifest required under sections 158, 159 and 160[1].—[Sea Customs Act, 1878—Act VIII of 1878, s. 165.]

Power to board and examine coasting vessels.

544 (*lm*). Any duly empowered officer of Customs may go on board of any coasting-vessel in any port or place in British India, and may at any period of a voyage search any such vessel and examine all goods on board, and all goods then lading or unlading, and may demand the production of any document which ought to be on board of any such vessel.

The Customs collector may further require that any such document belonging to any coasting vessel then in port shall be brought to him for inspection. —[Sea Customs Act, 1870—Act VIII of 1878, s. 166.]

Power to declare places to be ports for coasting trade.

544 (*ln*). The Local Government may also from time to time in like manner [2] declare places to be ports for the carrying on of coasting trade with Cus-

[1] Ss. 544 (*le*), 544 (*lf*), 544 (*lg*).

[2] By notification in the official Gazette.

toms ports, or with any specified Customs port, and for no other purpose.—[Sea Customs Act, 1878—Act VIII of 1878, s. 12.]

Miscellaneous. (Coasting Trade.)

Load lines on Coasting Vessels.

(Load lines on Coasting vessels.)

544 (*lb*). The master of every British ship which is a coasting vessel within the meaning of the Sea Customs Act, 1878,[1] shall, before proceeding to sea from any port, mark outside upon each of her sides amidship, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

Marking of load-lines in case of coasting vessels.

The centre of this disc shall indicate the maximum load-line in salt-water to which it is intended to load the ship, until notice is given of an alteration.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 38.]

544 (*lp*). He shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the collector, or other principal officer of Customs of such port as the Local Government may, from time to time, appoint on this behalf, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre.

Annual statement as to position of load-line.

The master, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the collector or other principal officer of Customs aforesaid notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.

If default is made in sending or delivering any notice or statement required by this section to be sent or delivered, the master shall be punished with fine which may extend to one thousand rupees.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 39.]

544 (*lq*). When a ship has been marked as required by section thirty-eight, she shall be kept so marked until notice is given of an alteration.—[Indian Merchant Shipping Act, 1880—Act VII of 1880, s. 40.]

Ship to be kept marked.

544 (*lr*). With respect to the marking of a load-line on British ships employed in the coasting trade, the following provisions shall have effect:—

Marking of load-line in case of coasting vessels.

(1) The owner of every British ship employed in the coasting trade on the coasts of the United Kingdom (except such ships under eighty tons register employed solely in that trade) shall, before proceeding to sea from any port, mark upon each of her sides amidships, or as near thereto as is practicable, in white or yellow, in a dark ground, or

[1] Coasting vessel denotes any vessel proceeding from one Customs port to another Customs port, whether touching at any intermediate foreign port or not; or proceeding from or to a Customs port to or from a place declared to be a port under s. 12.—[Act VIII of 1878, s. 3.]

Miscellaneous. (Load lines on coasting vessels).

in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre;

(2) The centre of this disc shall indicate the maximum load line in salt water to which the owner intends to load the ship, until notice is given of an alteration;

(3) He shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the collector or other principal officer of Customs of the port of registry of the ship, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's deck which is above that centre;

(4) The owner, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the collector or other principal officer of Customs of the port of registry of the ship) notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines;

(5) If default is made in sending or delivering any notice or statement required by this section to be sent or delivered, the owner shall be liable to a penalty not exceeding one hundred pounds;

(6) When a ship has been marked as by this section required, she shall be kept so marked until notice is given of an alteration.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 27.]

Penalty for offences in relation to marks on ships.

544 (*1s*). Any owner or master of a British ship who neglects to cause his ship to be marked as by this Act required, or to keep her so marked, or who allows the ship to be so loaded as to submerge in salt water the centre of the disc, and any person who conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate, any of the said marks, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy, shall for each offence incur a penalty not exceeding one hundred pounds.

If any of the marks required by this Act is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall incur a penalty not exceeding one hundred pounds.—[Merchant Shipping Act, 1876,[1] 39 & 40 Vic., c. 80, s. 28.]

Offences and penalties as to coasting vessels.

544 (*1t*). The offences mentioned in the first column of the following

[1] Nothing in 39 & 40 Vic., c. 80, applies to any vessel employed exclusively in trading or going from place to place in any river or inland water of which the whole or part is in any British possession, and the provision of the Act relating to deck cargo shall not apply to deck cargo carried by a ship while engaged in the coasting trade of any British possession.—[See 39 & 40 Vic., c. 80, s. 44.]

schedule shall be punishable to the extent mentioned in the third column of the same with reference to such offences respectively :—

Offences.	Section of this Act to which offences has reference.	Penalties.
62.—If, in contravention of any rules made under section 157, any goods are taken into, or put out of, or carried in, any coasting vessel; or if any such rules be otherwise infringed.	157 544 (1*d*)	The master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
63.—If, contrary to any such rules, any coasting vessel touches at any foreign port, or deviates from her voyage, unless forced by unavoidable circumstances; or if the master of any such vessel which has touched at a foreign port fails to declare the same in writing to the Customs collector at the customs port at which such vessel afterwards first arrives.	159 544 (1*f*)	The master of such vessel shall be liable to a penalty not exceeding one thousand rupees: and if any goods liable to export duty have been landed from, or any goods liable to import duty have been shipped in, such vessel at such foreign port, such master shall further be liable to a penalty not exceeding three times the duty which would have been leviable on such goods if they had been exported from, or imported at, a customs port to or from a foreign port, as the case may be.
64.—If in the case of any coasting vessel any of the provisions of section 158, 159, or 160 are not complied with.	158, 159 & 160. 544 (1*e*) 544 (1*f*) 544 (1*g*)	The master of such vessel shall in each such case be liable to a penalty not exceeding five hundred rupees.
65.—If the person executing any bond given under section 161 fail to produce the certificate mentioned in the same section, or to show sufficient reason for its non-production.	161 544 (1*h*)	Such person shall be bound to pay a penalty equal to double the amount of customs duties which would have been chargeable on the export-cargo of the vessel had she been declared to be bound to a foreign port.
66.—If the master of any coasting vessel violates any of the conditions under which a general pass for such vessel has been granted.	164 544 (1*k*)	Such master shall be liable to a penalty not exceeding one thousand rupees.
67.—If any master of a coasting vessel contravenes any of the provisions of section 165.	165 544 (1*l*)	Such master shall be liable to a penalty not exceeding five hundred rupees.
68.—If, upon examination, any package entered in the cargo-book required by section 165, as containing dutiable goods, is found not to contain such goods; or if any package is found to contain dutiable goods not entered, or not entered as such, in such book.	165 544 (1*l*)	Such package, with its contents, shall be liable to confiscation.

Miscellaneous. (Offences and Penalties relating to Coasting Trade.)

Offences.	Section of this Act to which offences has reference.	Penalties.
69.—If the master of any coasting vessel required under section 165 to keep a cargo-book fails correctly to keep, or to cause to be kept, such book, or to produce the same on demand; or if at any time there be found on board of any such vessel any goods not entered in such book as laden, or any goods noted as delivered; or if any goods entered as laden and not noted as delivered, be not on board.	165 544 (1*l*)	Such master shall be liable to a penalty not exceeding five hundred rupees.
70.—If, contrary to the provisions of this or any other law for the time being in force relating to the Customs, any goods are laden on board of any vessel in any Customs port and carried coastwise; or if any goods which have been brought coastwise are so unladen in any such port; or if any goods are found on board of any coasting vessel without being entered in the manifest or cargo-book, or both (as the case may be) of such vessel.	Chapter XV. 544 (1*d*) to 544 (1*m*)	Such goods shall be liable to confiscation, and the master of such vessel shall be liable to a penalty not exceeding five hundred rupees.
71.—If the master of any coasting vessel refuses to bring any document to the Customs collector when so required under section 166. [See Customs Act, 1878—Act VIII of 1878, s. 167.]	166 544 (1*n*)	Such master shall be liable to a penalty not exceeding two hundred rupees.

[See Customs Act, 1878—Act VIII of 1878, s. 167.]

Act not to affect Passengers Act, 15 & 16 Vic., c. 44; 16 & 17 Vic., c. 84.

545. Nothing in this Act contained shall be taken to repeal or alter any of the provisions of the "Passengers Act, 1852," or of the Act of the seventeenth year of Her present Majesty, chapter eighty-four.

Corporations, &c., may grant sites for seaman's lodging.

546. The municipal corporation of any borough being a seaport in the United Kingdom, and any body corporate, association, or trustees in any such seaport existing or constituted for any public purposes relating to the government or benefit of persons engaged in the British Merchant Service, or to the management of docks and harbours, or for any other public purposes connected

with shipping or navigation, may, with the consent of Her Majesty's Secretary of State for the Home Department, appropriate any lands vested in them or in trustees for them as a site or sites for a sailors' home or sailors' homes, and may for that purpose either retain and apply the same accordingly, or convey the same to trustees, with such powers for appointing new trustees and continuing the trust as they think fit.

Miscellaneous Offences and Penalties relating to Coasting Trade.

547. The legislative authority of British possession shall have power, by any Act or ordinance, confirmed by Her Majesty in Council, to repeal, wholly or in part, any provisions of this Act relating to ships registered in such possession; but no such Act or ordinance shall take effect until such approval has been proclaimed in such possession, or until such time thereafter as may be fixed by such Act or ordinance for the purpose.

Power of colonial legislatures to alter provisions of Act.

548. All expenses incurred by the Commissioners of Customs in the conduct of suits or prosecutions, or otherwise in carrying into effect the provisions of this Act, shall be considered as expenses having references to the Revenue of Customs, and shall be paid out of the Consolidated Customs; but the Board of Trade may, with the consent of the Treasury, repay out of the Mercantile Marine Fund all or any part of such of the expenses so paid as are by the provisions of this Act chargeable on the said Fund.

Expenses incurred by Commissioners of Customs to be paid out of the Consolidated Customs.

Orders in Council.

Orders in Council.

548*a*. Whenever an Order in Council has been issued under this Act applying any provisions of this Act or any regulation made by or in pursuance of this Act to the ships of any foreign country, such ships shall in all cases arising in any British court be deemed to be subject to such provision or regulation, and shall for the purpose of such provision or regulation be treated as if they were British ships.—[Merchant Shipping Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 61.]

Effect of Orders in Council.

548*b*. Whenever it has been made to appear to Her Majesty that the Government of any foreign state is desirous that any of the provisions of the Merchant Shipping Acts, 1854 to 1876, or of any Act hereafter to be passed amending the same, shall apply to the ships of such state, Her Majesty may by Order in Council declare that such of the said provisions as are in such order specified shall (subject to the limitations, if any, contained in the Order) apply, and thereupon, so long as the Order remains in force, such provisions shall apply (subject to the said limitations) to the ships of such state, and to the owners, masters, seamen, and apprentices of such ships, when not locally within the jurisdiction of such state, in the same manner in all respects as if such ships were British ships.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 37.]

Power to Her Majesty in Council to apply certain provisions of the Merchant Shipping Acts to foreign ships.

548*c*. In issuing any Order in Council under this Act Her Majesty may limit the time during which it is to remain in operation, and may make the same subject to such conditions and qualifications, if any, as may be deemed

Orders in Council may be limited as to time, and qualified.

Miscellaneous (Orders in Council.)

expedient; and thereupon the operation of the said Order shall be limited and modified accordingly.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 62.]

Orders in Council may be revoked and altered.

548*d*. Her Majesty may by Order in Council from time to time revoke or alter any order previously made under this Act.[1]—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 63.]

Orders in Council to be published in *London Gazette*.

548*e*. Every Order in Council to be made under this Act shall be published in the *London Gazette* as soon as may be after the making thereof;[2] and the production of a copy of the *London Gazette* containing such Order shall be received in evidence, and shall be proof that the Order therein published has been duly made and issued; and it shall not be necessary to plead such Order specially.—[Merchant Shipping Act Amendment Act, 1862, 25 & 26 Vic., c. 63, s. 64.]

Provisions as to Orders in Council.

548*f*. Where Her Majesty has power under the Merchant Shipping Act, 1854, or any Act passed or hereafter to be passed amending the same, to make an Order in Council, it shall be lawful for Her Majesty from time to time to make such Order in Council, and by Order in Council to revoke, alter or add to any order so made.

Every such Order in Council shall be published in the *London Gazette* and shall be laid before both Houses of Parliament within one month after it is made, if Parliament be then sitting, or if not, within one month after the then next meeting of Parliament.

Upon the publication of such Order in the *London Gazette*, the Order shall, after the date of such publication or any later day mentioned in the Order, take effect as if it were enacted by Parliament.—[Merchant Shipping Act, 1876, 39 & 40 Vic., c. 80, s. 38.]

Publication and effect of Order in Council.

548*g*. When an Order (in Council) applying this Act in the case of any foreign state has been published in the *London Gazette*, this Act (after the date specified in the Order, or if no date is specified, after the date of the publication) shall, so long as the Order remains in force, but subject to the limitations, restrictions, conditions, exceptions, and qualifications, if any, contained in the Order, apply in the case of such foreign state. An Order in Council shall be conclusive evidence that the arrangement therein referred to complies with the requisitions of this Act, and that this Act applies in the case of the foreign state mentioned in the Order, and the validity of such Order shall not be questioned in any legal proceedings whatever.—[The Extradition Act, 1870, 33 & 34 Vic., c. 52, s. 5.]

Bills of Lading.

Bill of Lading.

Rights under bills of lading to vest in consignee or endorsee.

548*h*. Every consignee of goods named in a bill of lading, and every

[1] Similarly worded section in the Foreign Deserters Act, 1852, 15 & 16 Vic., c. 26, s. 6.

[2] The 1st part of this section is similarly worded with Section 4 of the Foreign Deserters Act, 1852, 15 & 16 Vic., c. 26, s. 4.

endorsee of a bill of lading to whom the property in the goods therein mentioned shall pass, upon or by reason of such consignment or endorsement shall have transferred to and vested in him all rights of suit, and be subject to the same liabilities in respect of such goods as if the contract contained in the bill of lading had been made with himself.—[Bills of Lading Act, 1850—Act IX of 1856, s. 1.]

Miscellaneous. (Bills of Lading.)

548*i*. Nothing herein contained shall prejudice or affect any right of stoppage *in transitu*, or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee by reason or in consequence of his being such consignee or endorsee, or of his receipt of the goods by reason or in consequence of such consignment or endorsement.—[Bills of Lading Act, 1850—Act IX of 1856, s. 2.]

Not to affect right of stoppage *in transitu* or claims for freight.

548*j*. Every bill of lading in the hands of a consignee or endorsee for valuable consideration, representing goods to have been shipped on board a vessel, shall be conclusive evidence of such shipment as against the master or other person signing the same, notwithstanding that such goods or some part thereof may not have been so shipped, unless such holder of the bill of lading shall have had actual notice at the time of receiving the same that the goods had not in fact been laden on board:

Bill of lading in hands of consignee, &c., conclusive evidence of the shipment as against master, &c.

Provided that the master or other person so signing may exonerate himself in respect of such misrepresentation, by showing that it was caused without any default on his part, and wholly by the fraud of the shipper, or of the holder, or some person under whom the holder claims.—[Bills of Lading Act, 1850—Act IX of 1856, s. 3.]

Proviso.

548*k*. "Bill of lading" means any instrument signed by the owner of a vessel or his agent, acknowledging the receipt of goods therein described, and undertaking to deliver the same at a place and to a person therein mentioned or indicated.—[Stamp Act, 1879—Act I of 1879, s. 3 (cl. 3).]

Definition of "bill of lading."

548*l*. The schedules and everything therein contained shall be read and construed as part of this Act.

Stamp duty payable on bill of lading.

SCHEDULE I.

Description of Instrument.	Proper Stamp-duty.
No. 12. Bill of lading.	Four annas. If a bill of lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.

[Stamp Act, 1879—Act I of 1879, s. 4 (and sch. I, cl. 12).]

548*m*. Subject to the exemption contained in the second schedule, the following instruments shall be chargeable with the duty of the amount indicated in the first schedule as the proper duty therefor respectively (that is to say)—

Exemption from duty of certain bills of lading.

(*a*) every instrument mentioned in the first schedule, and which, not

Miscellaneous (Bills of Lading.)

having been previously executed by any person, is executed in British India on or after the first day of April 1879;

(*b*) every bill of exchange, cheque, or promissory note drawn or made out of British India on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred, or otherwise negotiated, in British India; and

(*c*) every instrument (other than a bill of exchange, cheque, or promissory note) mentioned in the first schedule, which not having been previously executed by any person, is executed out of British India on or after that day, relates to any property situate, or to any matter or thing done or to be done, in British India, and is received in British India.

SCHEDULE II.

Instruments exempted from stamp duty.

7. Bill of lading, when the goods therein described are received at a place within the limits of any port as defined under the Indian Ports Act, 1875, and are to be delivered at another place within the limits of the same port.

[Stamp Act, 1879, Act I of 1879, s. 5, and sch. II, cl. 7.]

Effect of assignment of Bill of Lading.

Cessation of right on assignment by buyer of bill of lading.

548*n*. The right of stoppage ceases if the buyer, having obtained a bill of lading or other document showing title to the goods, assigns it, while the goods are in transit, to a second buyer, who is acting in good faith, and who gives valuable consideration for them.

Illustrations.

(*a*) *A sells and consigns certain goods to B, and sends him the bill of lading. A being still unpaid, B becomes insolvent, and while the goods are in transit, assigns the bill of lading for cash to C, who is not aware of his insolvency. A cannot stop the goods in transit.*

(*b*) *A sells and consigns certain goods to B. A being still unpaid, B becomes insolvent, and, while the goods are still in transit, assigns the bill of lading for cash to C, who knows that B is insolvent. The assignment not being in good faith, A may still stop the goods in transit.*—[Contract Act, 1872—Act IX of 1872, s. 102.]

Stoppage where bill of lading is pledged to secure specific advance.

548*o*. Where a bill of lading or other instrument of title to any goods is assigned by the buyer of such goods by way of pledge, to secure an advance made specifically upon it, in good faith, the seller cannot, except on payment or tender to the pledgee of the advance so made, stop the goods in transit.

Illustrations.

(*a*) *A sells and consigns goods to B of the value of Rs. 12,000. B assigns the bill of lading for these goods to C to secure a specific advance*

of Rs. 5,000 made to him upon the bill of lading by C. B becomes insolvent, being indebted to C to the amount of Rs. 9,000. A is not entitled to stop the goods except on payment or tender to C of Rs. 5,000. Miscellaneous (Bills of Lading.)

(b) A sells and consigns goods to B of the value of Rs. 12,000. B assigns the bill of lading for these goods to C to secure the sum of Rs. 5,000 due from him to C upon a general balance of account. B becomes insolvent. A is entitled to stop the goods in transit without payment or tender to C of the Rs. 5,000.—[Contract Act, 1872—Act IX of 1872, s. 103.]

Sea Customs.

(Sea Customs.)

548*p*. In this Act, unless there be something repugnant in the subject or context— Interpretation.

(*a*) "Chief Customs authority" denotes the person authorised to exercise, subject to the Local Government, the chief control in matters relating to Sea Customs in any place in which this Act operates: "Chief Customs authority."

(*b*) "Chief Customs officer" denotes the chief executive officer of Sea Customs for any port to which this Act applies: "Chief Customs officer."

(*c*) "Customs collector" includes every officer of Customs for the time being in separate charge of a Custom-house, or duly authorised to perform all or any special duties of an officer so in charge: "Customs collector."

(*d*) "Customs port" means any place except Aden declared under section 11 to be a port for the shipment and landing of goods: "Customs port."

(*e*) "Foreign port" means Aden and any place beyond the limits of British India: "Foreign port."

(*f*) "Vessel" includes anything made for the conveyance by water of human beings or property: "Vessel."

(*g*) "Coasting vessel" denotes any vessel proceeding from one Customs port to another Customs port, whether touching at any intermediate foreign port or not: or proceeding from or to a Customs port to or from a place declared to be a port under section 12:[1] "Coasting vessel."

(*h*) "Master," when used in relation to any vessel, means any person, except a pilot or harbour master, having command or charge of such vessel: "Master."

(*i*) "Warehousing port" means any Customs port declared under section 14[2] to be a warehousing port: "Warehousing port."

(*j*) "Warehouse" denotes any place appointed or licensed under section 15 or section 16.[3]—[Sea Customs Act, 1878—Act VIII of 1878, s. 3.] "Warehouse."

[1] S. 544 (*ln*).

[2] Local Government may from time to time declare, by notification in the official Gazette, that any Customs port shall be a warehousing port for the purposes of this Act.—[S. 14, Act VIII of 1878.]

[3] Under ss. 15 & 16 the chief Customs authority in any port may appoint places to be public warehouses; and may license private warehouses, and may revoke such licenses.

Miscellaneous. (See Customs.)

Stations for Customs officers to board and land.

548*g*. The chief Customs authority may from time to time appoint, in or near any Customs port, stations or limits at or within which vessels arriving at, or departing from, such port shall bring-to for the boarding or landing of officers of Customs, and may, unless separate provision therefor has been made under the Indian Ports Act, 1875, direct at what particular place in any such port vessels, not brought into port by pilots, shall anchor or moor.—[Sea Customs Act, 1878—Act VIII of 1878, s. 17.]

Levy of, and exemption from, Customs Duties.

Goods derelict and wreck.

548*r*. All goods derelict, jetsam, flotsam and wreck, brought or coming into any place in British India, shall be subject to the same duties, if any, to which goods of the like kind are for the time being subject on importation at any Customs port, and shall in other respects be dealt with as if they were imported from a foreign port, unless it be shown to the satisfaction of the Customs-collector that such goods are the produce or manufacture of any place from which they are entitled to be admitted duty-free.—[Sea Customs Act, 1878—Act VIII of 1878, s. 27.]

Country-provisions and stores may be shipped free of duty.

548*s*. Provisions and stores produced or manufactured in British India, required for use on board of any vessel proceeding to any foreign port, may be shipped free of duty, whether of customs or excise, in such quantities as the Customs collector determines with reference to the tonnage of the vessel, the numbers of the crew and passengers, and the length of the voyage on which the vessel is about to depart:

Provided that no rum shall be so shipped on any vessel going on a voyage of less than thirty days' probable duration.—[Sea Customs Act, 1878—Act VIII of 1878, s. 28.]

Arrival and Departure of Vessels.

(Arrival and Entry of Vessel inwards.)

Power to fix place beyond which inward-bound vessels are not to proceed until manifest delivered.

Delivery of manifest when vessel anchors below place so fixed.

548*t*. The Local Government may, by notification in the local official Gazette, fix a place in any river or port, beyond which no vessel arriving shall pass until a manifest has been delivered to the pilot, officer of Customs, or other person duly authorised to receive the same.

If, in any river or port wherein a place has been fixed by the Local Government under this section, the master of any vessel arriving remains outside or below the place so fixed, such master shall, nevertheless, within twenty-four hours after the vessel anchors, deliver a manifest to the pilot, officer of Customs, or other person authorised to receive the same.—[Sea Customs Act, 1878—Act VIII of 1878, s. 58.]

Delivery of manifest where no place has been so fixed.

548*u*. If any vessel arrives at any Customs port in which a place has not been so fixed, the master of such vessel shall, within twenty-four hours after

such vessel has anchored within the limits of the port, deliver a manifest to the pilot-officer of Customs, or other person authorised to receive the same.—[Sea Customs Act, 1878—Act VIII of 1878, s. 54.]

548*b*. Every manifest shall be signed by the master, shall specify all goods imported in such vessel, showing separately all goods (if any) intended to be landed, transhipped or taken on to another port, and all ships' stores intended for consumption in port or on the homeward voyage, and shall contain such further particulars, and be made out in such form, as the chief Customs authority may from time to time direct.

Signature and contents of manifest.

The Customs collector shall permit the master to amend any obvious error in the manifest, or to supply any omission which in the opinion of such collector results from accident or inadvertence, by furnishing an amended or supplementary manifest.

Amendment of manifest.

and may, if he thinks fit, levy thereon such fee as the chief Customs authority from time to time directs. Except as herein provided no import manifest shall be amended.—[Sea Customs Act, 1878—Act VIII of 1878, s. 55.]

548*c*. Anything which a master is required or empowered to do under this Act may, with the express or implied consent of such master and the approval of the Customs collector, be done by a ship's agent.—[Sea Customs Act, 1878—Act VIII of 1878, s. 5.]

When may be performed by master.

548*d*. The person receiving a manifest under section 53 or 54[1] shall countersign the same and enter thereon such particulars as the chief Customs authority from time to time directs in this behalf.—[Sea Customs Act, 1878—Act VIII of 1878, s. 56.]

Duty of person receiving manifest.

548*e*. No vessel arriving in any Customs port shall be allowed to break bulk until a manifest has been delivered as hereinbefore provided; nor until a copy of such manifest, together with an application for entry of such vessel inwards, has been presented by the master to the Customs collector and an order has been given thereon for such entry.—[Sea Customs Act, 1878—Act VIII of 1878, s. 57.]

Bulk not to be broken until manifest delivered.

548*f*. The master shall, if required so to do by the Customs collector at the time of presenting such application, deliver to the Customs collector the bill of lading or a copy thereof for every part of the cargo laden on board, and any port-clearance, cocket or other paper granted in respect of such vessel at the place from which she is stated to have come, and shall answer all such questions relating to the vessel, cargo, crew, and voyage as are put to him by such officer.

Master required to produce bill of lading, port-clearance, cocket and answer questions.

The Customs collector may, if any requisition or question made or put by him under this section is not complied with or answered, refuse to grant such application.—[Sea Customs Act, 1878—Act VIII of 1878, s. 58.]

548 (*g*). Notwithstanding anything contained in section 57,[2] the Customs

Power to refuse entry in certain cases.

[1] s. 548*b* and 548*c*.

[2] s. 548*e*.

Manifestos. (see Customs.)

collector may grant, prior to receipt of the manifest, and to the entry inwards of the vessel, a special pass permitting bulk to be broken.

The granting of such pass shall be subject to such rules as may from time to time be made by the chief Customs authority.—[Sea Customs Act, 1878—Act VIII of 1878, s. 59.]

Manifest, &c., may be delivered by ship's agent.

548 (*h*). Notwithstanding anything contained in section 53, 54, 57 or 58,[1] the Customs collector may accept from the ship's agent, in lieu of the master, delivery of the manifest or of any other document required by those sections to be delivered by the master.—[Sea Customs Act, 1878—Act VIII of 1878, s. 60.]

Entry outwards, Port-clearance, and Departure of Vessels.

Order for entry outwards to be obtained before export cargo is shipped.

548 (*i*). No vessel shall take on board any part of her export cargo, until a written application for entry of such vessel outwards, subscribed by the master of such vessel, has been made to the Customs collector, or before an order has been given thereon by such officer for such entry.

Every application made under this section shall specify the name, tonnage, and national character of the vessel, the name of the master, and the name of every place for which cargo is to be shipped.—[Sea Customs Act, 1878—Act VIII of 1878, s. 61.]

No vessel to depart without port-clearance.

No pilot to take charge without production of port-clearance.

548 (*k*). No vessel, whether laden or in ballast, shall depart from any Customs port until a port-clearance has been granted by the Customs collector or other officer duly authorised to grant the same, and no pilot shall take charge of any vessel proceeding to sea unless the master of such vessel produces a port-clearance.—[Sea Customs Act, 1878—Act VIII of 1878, s. 62.]

Master on applying for port-clearance to deliver documents and answer questions.

548 (*l*). Every application for port-clearance shall be made by the master at least twenty-four hours before the intended departure of the vessel.

The master shall at the time of applying for port-clearance—

(*a*) deliver to the Customs collector a manifest in duplicate in such form as may from time to time be prescribed by the chief Customs authority, signed by such master, specifying all goods to be exported in the vessel, and showing separately all goods and stores entered in the import manifest, and not landed or consumed on board or transhipped;

(*b*) deliver to the Customs collector such shipping bills or other documents as such Customs collector, acting under the general instructions of such chief Customs authority, requires; and

(*c*) answer to the proper officer of Customs such questions touching the departure and destination of the vessel as are demanded of him.

The provisions of section 55[2] relating to the amendment of import manifests shall, *mutatis mutandis*, apply also to export manifests delivered

[1] Ss. 548*f*, 548*n*, 548*o*, and 548*s*. [2] S. 548*v*.

under this section.—[Sea Customs Act, 1878—Act VIII of 1878, s. 63.]

Miscellaneous. (Sea Customs.)

548 (*lf*). The Customs collector may refuse port-clearance to any vessel until—

Power to refuse port-clearance.

(*a*) the provisions of section 63[1] are complied with;

(*b*) all port-dues and other charges and penalties due by such vessel or by the owner or master thereof, and all duties payable in respect of any goods shipped therein, have been duly paid, or their payment secured by such guarantee, or by a deposit at such rate as such Customs collector directs;

(*c*) the ship's Agent (if any) delivers to the Customs collector a declaration in writing to the effect that he will be liable for any penalty imposed under section 167,[2] No. 17, and furnishes security for the discharge of the same;

(*d*) the ship's agent (if any) delivers to the Customs collector a declaration in writing to the effect that such agent is answerable for the discharge of all claims for damage or short delivery which may be established by the owner of any goods comprised in the import-cargo in respect of such goods.

A ship's agent delivering a declaration under clause (*c*) of this section shall be liable to all penalties which might be imposed on the master under section 167,[2] No. 17, and a ship's agent delivering a declaration under clause (*d*) of this section shall be bound to discharge all claims referred to in such declaration.—[Sea Customs Act, 1878—Act VIII of 1878, s. 64.]

Grant of port-clearance.

548 (*lg*). When the Customs collector is satisfied that the provisions of section 63,[1] and, if necessary, of clauses (*b*) and (*c*) and (*d*) of section 64,[3] have been complied with, he shall grant a port-clearance to the master, and shall return at the same time to such master one copy of the manifest duly countersigned by the proper officer of Customs.—[Sea Customs Act, 1878—Act VIII of 1878, s. 65.]

Customs collector may grant port-clearance on security of ship's agent.

548 (*lh*). Notwithstanding anything contained in sections 64[3] and 65,[4] the Customs collector may (subject to such rules as the chief Customs authority may from time to time prescribe) grant a port-clearance to the master when the ship's agent furnishes such security as the Customs collector deems sufficient for duly delivering, within five days from the date of such grant, the manifest and other documents specified in section 63.—[Sea Customs Act, 1878—Act VIII of 1878, s. 66.]

General Provisions affecting Vessels in Port.

Power to depute Customs officer to board ships.

548 (*li*). The Customs collector at any Customs port may at any time depute at his discretion one or more officers of Customs to board any vessel in or arriving at such port.

[1] S. 548 (*le*). [2] S. 544 (*ff*), p. 530. [3] S. 548 (*lf*). [4] S. 548 (*lg*).

Miscellaneous. (Sea Customs.)

Duty of such Officer.

Every officer of Customs so sent shall remain on board of such vessel by day and by night unless or until the Customs collector otherwise orders.—[Sea Customs Act, 1878—Act VIII of 1878, s. 67.]

Officer and servant to be received.

548 (*If*). Whenever an officer of Customs is so deputed on board of any vessel, the master of such vessel shall be bound to receive on board such officer and one servant of such officer, and to provide such officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water and with the means of cooking on board.—[Sea Customs Act, 1878—Act VIII of 1878, s. 68.]

Accommodation of officer and servant.

Officers of Customs to have free access to every part of ship and may seal and secure goods.

548 (*Ig*). Every officer of Customs so deputed shall have free access to every part of the vessel, and may fasten down any hatchway or entrance to the hold and mark any goods before landing, and lock up, seal, mark, or otherwise secure any goods on board of such vessel.

Power to authorise search and opening of lockers.

If any box, place, or closed receptacle in any such vessel be locked, and the key be withheld, such officer shall report the same to the Customs collector, who may thereupon issue to the officer on board, or to any other officer under his authority, a written order to search.

On production of such order, the officer bearing the same may require that any such box, place, or closed receptacle be opened in his presence; and, if it be not opened upon his requisition, he may break open the same.—[Sea Customs Act, 1878—Act VIII of 1878, s. 69.]

Goods not to be shipped, discharged, or water-borne, except in presence of officer.

548 (*Ih*). Unless with the written permission of the Customs collector or in accordance with a general permission granted under section 74,[1] no goods, other than passengers' baggage or ballast urgently required to be shipped for the vessel's safety, shall be shipped or water-borne to be shipped or discharged from any vessel in any Customs port, except in the presence of an officer of Customs.—[Sea Customs Act, 1878—Act VIII of 1878, s. 70.]

Period allowed for discharge and shipment of cargo.

548 (*Ini*). When an officer of Customs is deputed under section 67[2] to remain on board a vessel, the tonnage of which does not exceed six hundred tons, a period of thirty working days, reckoned from the date on which he boards such vessel, or such additional period as the Customs collector directs, shall be allowed for the discharge of import cargo and the shipment of export cargo on board of such vessel.

One additional day shall, in like manner, be allowed for every fifty tons in excess of six hundred.

No charge shall be made for the services of a single officer of Customs for such allowed number of working days, or for the services of several such officers (if available) for respective periods not exceeding in the aggregate such allowed number of working days.

Consequence of exceeding same.

If the period occupied in the discharge and shipment of cargo be in excess of thirty working days, together with the additional period (if any) allowed

[1] S. 548 (*Ie*).

[2] S. 548 (*Id*).

under this section, the vessel shall be charged with the expense of the officer of Customs at a rate not exceeding five rupees per diem (Sundays and holidays excepted) for such excess period.

Miscellaneous. (Sea Customs.)

In calculating any period allowed, or any charge made, under this section, the period (if any) during which a vessel, after the completion of the discharge of import cargo, and before commencing the shipment of export cargo, is laid up by the withdrawal of the officer of Customs, upon application from the master, shall be deducted.—[Sea Customs Act, 1878—Act VIII of 1878, s. 71.]

Allowance for period during which vessel is laid up.

548 (*In*). Except with the written permission of the Customs collector, no goods, other than passengers' baggage, shall in any Customs port be discharged from any vessel, or be shipped or water-borne to be shipped—

Goods not to be landed, &c., on sundays or holidays without permission, nor except within fixed hours.

(*a*) on any Sunday or on any holiday or day on which the discharge or shipping of cargo, as the case may be, is prohibited by the chief Customs authority;

(*b*) on any day, except between such hours as such authority from time to time appoints by notification in the official Gazette.—[Sea Customs Act, 1878—Act VIII of 1878, s. 72.]

548 (*Io*). No goods shall in any Customs port be landed at any place other than a wharf or other place duly appointed for that purpose, and

Goods not to be shipped, &c., except at wharves.

unless with the written permission of the Customs collector, or when a general permission has been granted under section 74,[1] no goods shall in any Customs port be shipped or water-borne to be shipped from any place other than a wharf or other place duly appointed for that purpose.—[Sea Customs Act, 1878—Act VIII of 1878, s. 73.]

548 (*Ip*). Notwithstanding anything contained in section 70 or 73,[2] the chief Customs authority may by notification in the local official Gazette give general permission for goods to be shipped or water-borne to be shipped in any Customs port from all or any places not duly appointed as wharves, and without the presence or authority of an officer of Customs.—[Sea Customs Act, 1878—Act VIII of 1878, s. 74.]

Power of chief Customs authority to except from sec. 548 (Io) and 548 (Ic).

548 (*Iq*). When any goods are water-borne for the purpose of being landed from any vessel and warehoused or cleared for home consumption or of being shipped for exportation on board any vessel, there shall be sent, with each boat-load or other despatch, a boat-note specifying the number of packages so sent and the marks or other description thereof.

Boat-note to be signed by master of vessel.

Each boat-note for goods to be landed shall be signed by an officer of the vessel, and likewise by the officer of Customs on board, if any such officer be on board, and shall be delivered on arrival to any officer of Customs authorised to receive the same.

Each boat-note for goods to be shipped shall be signed by the proper

[1] S. 548 (*Ip*).

[2] Ss. 548 (*Ic*) and 548 (*Io*).

Miscellaneous. (Sea Customs.)

officer of Customs, and, if an officer of Customs is on board of the vessel on which such goods are to be shipped, shall be delivered to such officer.

If no such officer be on board, every such boat-note shall be delivered to the master of the vessel, or to an officer of the vessel appointed by him to receive it.

The officer of Customs, who receives any boat-note of goods landed, and the officer of Customs, master, or other officer, as the case may be, who receives any boat-note of goods shipped, shall sign the same, and note thereon such particulars as the chief Customs authority may from time to time direct.

The Local Government may from time to time, by notification in the local official Gazette, suspend the operation of this section in any Customs port or part thereof.—[Sea Customs Act, 1878—Act VIII of 1878, s. 76.]

Power to require goods to be weighed or measured on board before landing or after shipment.

548 (*1r*). The Customs collector may, whenever he thinks fit, require that goods stowed in bulk, and brought by sea or intended for exportation, shall be weighed or measured on board before landing or after shipment, and may levy duty according to the result of such weighing or measurement.—[Sea Customs Act, 1878—Act VIII of 1878, s. 80.]

Power to make rules regarding baggage and tombs.

548 (*1s*). The chief Customs authority may from time to time make rules for the landing and shipping of passengers' baggage and the passing of the same through the Customs-house; and for the landing, shipping, and clearing of parcels forwarded by Her Majesty's or other mails, or by other regular packets and passenger-vessels. When any baggage or parcels is or are made over to an officer of Customs for the purpose of being landed, a fee of such amount as the Local Government from time to time directs shall be chargeable thereon, as compensation for the expense and trouble incurred in landing and depositing the same in the Custom-house.—[Sea Customs Act, 1878—Act VIII of 1878, s. 75.]

Landing fees.

Discharge of Cargo and Entry inwards of Goods.

Discharge of cargo may commence on receipt of due permission.

548 (*1t*). When an order for entry inwards of any vessel which has arrived in any Customs port, or a special pass permitting such vessel to break bulk, has been given, the discharge of the cargo of such vessel may be proceeded with.—[Sea Customs Act, 1878—Act VIII of 1878, s. 81.]

Goods not to leave ship unless entered in manifest.

548 (*1u*). Except as otherwise provided in this Act, no goods shall be allowed to leave any such vessel, unless they are entered in the original manifest of such vessel, or in an amended or supplementary manifest received under section 55.[1]—[Sea Customs Act, 1878—Act VIII of 1878, s. 82.]

N.B.—S. 77 of Act VIII of 1878 enacts that water-borne goods are to be shipped without delay.

S. 78 of Act VIII of 1878 enacts that water-borne goods are not to be transhipped without permission.

S. 79 gives the Local Government power to prohibit plying of unlicensed cargo boats, and gives the chief Customs officer power to issue licenses for, and register cargo boats.

[1] See s. 548*e*.

548 (*1a*). If the owner of any goods (except such as have been shown in the import-manifest as not to be landed) does not land such goods within such period as is specified in the bill-of-lading of such goods, or, if no period is so specified, within such number of working days, not exceeding fifteen, after the entry of the vessel importing the same, as the Local Government from time to time appoints by notification in the official Gazette, or

Procedure in respect of goods not landed within time allowed.

if the cargo of any vessel, with the exception of only a small quantity of goods, has been discharged previously to the expiration of the period so specified or appointed, as the case may be,—

the master of such vessel or, on his application, the proper officer of Customs, may then carry such goods to the Custom-house, there to remain for entry.

The Customs collector shall thereupon take charge of, and grant receipts for, such goods;

and if notice in writing has been given by the master that the goods are to remain subject to a lien for freight, primage, general average, or other charges of a stated amount, the Customs collector shall hold such goods until he receives notice in writing that the said charges are paid.—[Sea Customs Act, 1878—Act VIII of 1878, s. 83.]

548 (*1c*). Notwithstanding anything contained in sections 83 and 84,[1] the Customs collector in any Customs port to which the Local Government, by notification in the local official Gazette, declares this section to be applicable, may permit the master of any vessel, immediately on receipt of an order under section fifty-seven or special pass under section fifty-nine to discharge the cargo of such vessel or any portion thereof into the custody of the ship's agents if willing to receive the same, for the purpose of landing the same forthwith—

Power to permit immediate discharge.

(*a*) at the Custom-house or any specified landing-place or wharf; or

(*b*) at any landing-place or wharf belonging to any port commissioners, port trust, or other public body or company.

Any ship's agent so receiving such cargo or portion shall be bound to discharge all claims for damage or short delivery which may be established in respect of the same by the owner thereof, and shall be entitled to recover from such owner his charges for service rendered, but not for commission or the like, where any agent for the landing of such cargo or portion has been previously appointed by the owner and such appointment is unrevoked.

The Customs collector shall take charge of all goods discharged under clause (*a*) of this section, and otherwise proceed in relation thereto as provided in sections 83 and 89.[2]

A public body or company at whose landing-place or wharf any goods are discharged under clause (*b*) of this section, shall not permit the same to be

[1] S. 84 allows the Customs collector to land small parcels at the Custom-house.

[2] Ss. 548 (*1a*) and 548 (*1b*).

Miscellaneous. (See Sections)

removed without an order in writing from the Customs collector.—[Sea Customs Act, 1878—Act VIII of 1878, s. 85.]

Procedure in case of goods not cleared or warehoused within four months after entry of vessel.

548 (*lx*). If any goods are not entered and cleared for home consumption, or warehoused, within four months from the date of entry of the vessel, such goods may, after due notice to the owner, if his address can be ascertained, and in the local official Gazette, be sold by public auction, and the proceeds thereof shall be applied, first to the payment of freight, primage and general average, if the goods are held by the Customs collector subject to such charges under notice given under section 83, 84, or 85;[1] next to the payment of the duties which would be leviable on such goods if they were then cleared for home consumption, and next to the payment of the other charges (if any) payable to the Customs collector in respect of the same.

The surplus, if any, shall be paid to the owner of the goods, on his application for the same; provided that such application be made within one year from the sale of the goods, or that sufficient cause be shown for not making it within such period.

Power to direct sale of perishable goods.

If any goods of which the Customs collector has taken charge under section 83, 84, or 85[1] be of a perishable nature, the Customs collector may at any time direct the sale thereof, and shall apply the proceeds in like manner:

Proviso.

Provided that, where any goods liable to be sold under this section are arms, ammunition or military stores, they may be sold or otherwise disposed of at such place (whether within or without British India), and in such manner, as the Local Government may from time to time direct:

Provided also that nothing in this section shall authorise the removal for home consumption of any dutiable goods without payment of duties of Customs thereon.—[Sea Customs Act, 1878—Act VIII of 1878, s. 88.]

Transhipment of Stores.

Transhipment of provisions and stores from one vessel to another of same owner without payment of duty.

548 (*ly*). If two or more vessels belonging wholly or in part to the same owner be at any Customs port at the same time, any provisions and stores in use or ordinarily shipped for use on board may, at the discretion of the Customs collector, be transhipped from one such vessel to any other such vessel without payment of import duty.—[Sea Customs Act, 1878—Act VIII of 1878, s. 132.][2]

[1] See s. 548 (*lx*) and footnote to s. 548 (*lw*), and s. 548 (*lw*).

[2] Governor General may prohibit, at any port, transhipment of any specified class of goods generally, or prescribe any special mode of transhipment. No goods may be transhipped at any port or place in British India, except as provided by this Act.—[Ss. 134 & 135 of Act VIII of 1878.]

Exportation or Shipment, and Re-landing.

Miscellaneous. (See Customs.)

No goods to be shipped, &c., till entry outwards of vessel.

548 (*1a*). Except with the written permission of the Customs collector, no goods other than passengers' baggage, or ballast urgently required for a vessel's safety, shall be shipped or water-borne to be shipped in any vessel in a Customs port until an order has been obtained under section 61[1] for entry outwards of such vessel.

When such order has been obtained, the export cargo of such vessel may be shipped, subject to the provisions next hereinafter contained.—[See Customs Act, 1878—Act VIII of 1878, s. 136.]

Clearance for shipment.

548 (*2a*). Unless the chief Customs authority shall, in the case of any Customs port or wharf, or of any class of goods, otherwise direct by notification in the local official Gazette, no goods, except passengers' baggage, shall be shipped or water-borne to be shipped for exportation until—

(*a*) the owner has delivered to the Customs collector, or other proper officer, a shipping-bill of such goods in duplicate, in such form and containing such particulars in addition to those specified in section 29[2] as may from time to time be prescribed by the chief Customs authority;

(*b*) such owner has paid the duties (if any) payable on such goods; and

(*c*) such bill has been passed by the Customs collector.—[Sea Customs Act, 1868—Act VIII of 1878, s. 137.]

Goods relanded or transhipped from a vessel returning to port or putting into another port.

548 (*2b*). If, after having cleared from any Customs port, any vessel, without having discharged her cargo, returns to such port, or puts into any other Customs port, any owner of goods in such vessel, if he desires to land or tranship the same or any portion thereof for re-export, may, with the consent of the master, apply to the Customs collector in that behalf.

The Customs collector, if he grant the application, shall thereupon send an officer of Customs to watch the vessel, and to take charge of such goods during such re-landing or transhipment.

Vessel returning to port may enter and land goods under import rules.

Such goods shall not be allowed to be transhipped or re-exported free of duty by reason of the previous settlement of duty at the time of first export, unless they are lodged and remain, until the time of re-export, under the custody of an officer of Customs, in a place appointed by the Customs collector, or are transhipped under such custody.

All expenses attending such custody shall be borne by the owner.—[Sea Customs Act, 1878—Act VIII of 1878, s. 141.]

548 (*2c*). In either of the cases mentioned in section 141,[3] the master of the vessel may enter such vessel inwards, and any owner of goods therein may, with the consent of the master, land the same under the rules herein contained for the importation of goods.

[1] See s. 548 (*1c*).

[2] S. 29 enacts that the owner of goods shall declare the real value of goods, imported or exported, in the bill of entry or shipping bill.

[3] S. 548 (*2b*).

Drawback (Sea Customs)

In every such case, any export-duty levied shall be refunded to, and any amount paid in drawback shall be recovered from, such owner.—[Sea Customs Act, 1878—Act VIII of 1878, s. 142].

Landing of cargo during repairs.

548 (*2d*). The Customs collector may, on application by the master of any vessel which is obliged before completing her voyage to put into any Customs port for repairs, permit him to land the cargo, or any portion thereof, and to place it in the custody of an officer of Customs during such repairs, and to re-ship and export the same free of duty.

All expenses attending such custody shall be borne by the master.—[Sea Customs Act, 1878—Act VIII of 1878, s. 143.]

As to the coasting trade in relation to the Sea Customs Act,—see s. 541(1d) to 541 (1n) and s. 541 (1t).

Procedure relating to Offences, Appeals, &c.

Power to search on reasonable suspicion.

548 (*2e*). Any officer of Customs duly employed in the prevention of smuggling may search any person on board of any vessel in any port in British India, or any person who has landed from any vessel:

Provided that such officer has reason to believe that such person has dutiable or prohibited goods secreted about his person.—[Sea Customs Act, 1878—Act VIII of 1878, s. 169.]

Power to stop vessels, carts, &c., and search for goods on reasonable suspicion.

548 (*2f*). Any duly empowered officer of Customs or other person duly employed for the prevention of smuggling, may stop and search for smuggled goods any vessel, cart or other means of conveyance; provided that he has reason to believe that smuggled goods are contained therein.—[Sea Customs Act, 1878—Act VIII of 1878, s. 171.]

Days of penalty for failure to bring-to.

548 (*2g*). If any vessel actually departs without a port-clearance, or after failing to bring-to when required at any station appointed under section 17,[1] the penalty to which the master of such vessel is liable may be adjudged by the chief Customs officer of any Customs port to which such vessel proceeds, or in which she is, and in the case of Aden, by such officer as the Governor of Bombay in Council appoints in this behalf.

A certificate of such departure or failure to bring-to when required, purporting to be signed by the chief Customs officer of the port from which the vessel is stated to have so departed, shall be *prima facie* proof of the fact so certified.—[Sea Customs Act, 1878—Act VIII of 1878, s. 185.]

Offences not specially provided for how tried.

548 (*2h*). All offences against this Act, other than those cognizable under section 182,[2] by officers of Customs, may be tried summarily by a magistrate.—[Sea Customs Act—1878—Act VIII of 1878, s. 187.]

[1] S. 17 gives power to chief Customs authority to appoint stations at which vessels shall bring-to for Customs officers to land and board.

[2] S. 182 provides that adjudications on confiscations and on cases for increased duty up to any limit in amount shall be heard before deputy commissioners or deputy collector of Customs or a Customs collector, and where the amount of goods does not exceed Rs. 250, before an assistant commissioner or an assistant collector of Customs.

548 (2*i*). Any person deeming himself aggrieved by any decision or order passed by an officer of Customs under this Act may, within three months from the date of such decision or order, appeal therefrom to the chief Customs authority, or, in such cases as the Local Government directs, to any officer of Customs not inferior in rank to a Customs collector and empowered in that behalf by name or in virtue of his office by the Local Government.

Miscellaneous (Sea Customs.)

Appeal from decisions to chief Customs authority.

Such authority or officer may thereupon make such further enquiry and pass such order as he thinks fit, confirming, altering or annulling the decision or order appealed against:

Provided that no such order in appeal shall have the effect of subjecting any person to any greater confiscation, penalty or rate of duty than has been adjudged against him in the original decision or order.

Every order passed in appeal under this section shall, subject to the power of revision conferred by section 191,[1] be final.—[Sea Customs Act, 1878—Act VIII of 1878, s. 188.]

548 (2*j*). The Local Government may, on the application of any person aggrieved by any decision or order passed under this Act by any officer of Customs or chief Customs authority, and from which no appeal lies, reverse or modify such decision or order.—[Sea Customs Act, 1878—Act VIII of 1878, s. 191.]

Revision by Local Government.

Offences and Penalties under Customs Act.

548 (2*k*). The offences mentioned in the first column of the following schedule shall be punishable to the extent mentioned in the third column of the same with reference to such offences respectively:—

Punishments for offences.

Offences.	Section of this Act to which offence has reference.	Penalties.
1.—Contravening any rule made under this Act.	General	Penalty not exceeding five hundred rupees.
13.—If, in any river or port wherein a place has been fixed under section 53 by the Local Government, any vessel arriving passes beyond such place before delivery of a manifest to the pilot, officer of Customs, or other person duly authorised to receive the same,	(53) 548*d*	the master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
14.—If the master of any vessel arriving, which remains outside or below any place so fixed, wilfully omits, for the space of twenty-four hours after anchoring, to deliver a manifest as required by this Act,	"	such master shall be liable to a penalty not exceeding one thousand rupees.

[1] S. 548 (2*j*).

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
15.—If, after any vessel arriving has entered any Customs port in which a place has not been fixed under section 53, the master of such vessel wilfully omits, for the space of twenty-four hours after anchoring, to deliver a manifest as required by this Act,	(54) 548*u*	such master shall be liable to a penalty not exceeding one thousand rupees.
16.—If any manifest delivered under section 53, 54, 60, 63, or 66 is not signed by the person delivering the same, and is not in the form or does not contain the particulars required by section 55 or 63, as the case may be, in so far as such particulars are applicable to the ship, cargo and voyage; or	(55 & 63) 548*v* & 548 (*1s*).	the person delivering such manifest shall be liable to a penalty not exceeding one thousand rupees.
if any manifest so delivered does not contain a specification true to the best of such person's knowledge of all goods imported or to be exported in such vessel,	(55 & 63) 548*v* & 548 (*1t*).	
17.—If any goods entered in the import-manifest of a vessel are not found on board of the vessel; or	(55 & 64) 548*v* & 548 (*1f*).	the master of such vessel shall be liable to a penalty not exceeding twice the amount of duty chargeable on the missing or deficient goods, if they be dutiable and the duty leviable thereon can be ascertained, or otherwise to a penalty not exceeding five hundred rupees for every missing or deficient package or separate article.
if the quantity so found is short, and if such deficiency is not accounted for to the satisfaction of the officer in charge of the Custom-house,		
18.—If any person required by this Act to receive a manifest from any master of a vessel refuses so to do, or fails to countersign the same, or to enter thereon the particulars referred to in section 56,	(53, 54, & 56) 548*t*, 548*u*, 548*x*.	such person shall be liable to a penalty not exceeding five hundred rupees.
19.—If bulk be broken in any vessel previous to the grant by the Customs collector of an order for entry inwards or a special pass permitting bulk to be broken,	(57 & 59) 548*y* and 548 *1a*.	the master of such vessel shall be liable to a penalty not exceeding one thousand rupees.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of the Act to which offence has reference.	Penalties.
20.—If any bill of lading or copy required under section 58 is false and the master is unable to satisfy the Customs collector that he was not aware of the fact; or if any such bill or copy has been altered with fraudulent intent; or	(68) 548 *a*.	the master of the vessel shall be liable to a penalty not exceeding one thousand rupees.
if the goods mentioned in any such bill or copy have not been *bonâ-fide* shipped as shown therein; or		
if any such bill of lading or any bill of lading of which a copy is delivered has not been made previously to the departure of the vessel from the place where the goods referred to in such bill of lading were shipped; or		
if any part of the cargo has been stayed, destroyed or thrown overboard; or if any package has been opened and such part of the cargo or such package be not accounted for to the satisfaction of the Customs collector.		
21.—If any master of a vessel attempts to depart without a Port-clearance,	(62) 548 (*ld*)	such master shall be liable to a penalty not exceeding five hundred rupees.
22.—If any vessel actually departs without a port-clearance,	(62) 548 (*ld*)	the master of such vessel shall be liable to a penalty not exceeding one thousand rupees.
23.—If any pilot takes charge of a vessel proceeding to sea, notwithstanding that the master of such vessel does not produce a Port-clearance,	(68) 584 (*lf*)	such master on conviction before a magistrate shall be liable to a fine not exceeding one thousand rupees.
24.—If any master of a vessel refuses to receive on board an officer of Customs deputed under section 67,	(68) 548 (*l*)	such master shall be liable to a penalty not exceeding five hundred rupees for each day during which such officer is not received on board; and the vessel if so entered shall not be allowed to enter until such penalty is paid.

OFFENCES AND PENALTIES—*contd.*

Offences.	Section of this Act to which offence has reference.	Penalties.
25.—If any master of a vessel refuses to receive on board one servant of such officer, or to provide such officer and servant with suitable shelter and accommodation, and with a due allowance of fresh water, and with the means of cooking on board,	(68) 584 (*lj*)	such master shall, in each such case, be liable to a penalty not exceeding five hundred rupees.
26.—If any master of a vessel refuses to allow such vessel, or any box, place or closed receptacle in such vessel, to be searched when so required by an officer of Customs bearing a written order to search; or	(69) 548 (*lk*)	the master of such vessel shall be liable, upon conviction before a magistrate, to a fine not exceeding one thousand rupees.
if an officer of Customs places any lock, mark or seal upon any goods in a vessel, and such lock, mark or seal is wilfully opened, altered or broken before due delivery of such goods; or		
if any such goods are secretly conveyed away; or		
if any hatchway or entrance to the hold of a vessel, after having been fastened down by an officer of Customs, is opened without his permission,		
27.—If the master of any vessel laid up by the withdrawal of the officer of Customs shall, before application is made by him for an officer of Customs to superintend the receipt of cargo, cause or suffer to be put on board of such vessel any goods whatever, in contravention of section 70,	(70) 548 (*ll*)	such master shall be liable to a penalty not exceeding one thousand rupees, and the goods, if protected by a pass, shall be liable to be retunded for examination at the expense of the vessel, and, if not protected by a pass, shall be liable to confiscation.
28.—If any master of a vessel, in any case other than that provided for by No. 27, causes or suffers any goods to be discharged, shipped or water-borne contrary to any of the provisions of section 70, 72, or 75,	(70, 72) & 75 548 (*ll*) 548 (*lu*) 548 (*ls*).	such master shall be liable to a penalty not exceeding one thousand rupees; and all goods so discharged, shipped or water-borne shall be liable to confiscation.
29.—If any master of a vessel discharges or suffers to be discharged any goods not duly entered in the manifest of such vessel;	(55 & 82) 548*v*, 548 (*lu*).	such master shall be liable to a penalty not exceeding one thousand rupees.

OFFENCES AND PENALTIES—*concld.*

Offences.	Section of this Act to which offences has reference.	Penalties.
35.—If any goods are found on board in excess of those entered in the manifest, or not corresponding with the specification therein contained,	55 & 82, 548*v* & 548 (*1u*).	such goods shall be liable to confiscation, or to be charged with such increased rates of duty as the chief officer of Customs directs.
74.—If any officer of Customs requires any person to be searched for dutiable or prohibited goods or to be detained, without having reasonable ground to believe that he has such goods about his person, or has been guilty of an offence relating to the Customs,	(169) 548 (*2c*)	such officer shall, on conviction before a magistrate, be liable to a fine not exceeding five hundred rupees.

—[Sea Customs Act, 1878—Act VIII of 1878, s. 167 and schedule.]

548(*2d*). The confiscation of any goods under this Act includes any package in which they are found, and all the other contents thereof.

Packages and contents included in confiscation of goods.

Every vessel, cart or other means of conveyance, and every horse or other animal, used in the removal of any goods liable to confiscation under this Act, shall in like manner be liable to confiscation.

Also conveyances and animals used in removal.

The confiscation of any vessel under this Act includes her tackle, apparel and furniture.—[Sea Customs Act, 1878—Act VIII of 1878, s. 168.]

Tackle, &c., included in confiscation of vessels.

548 (*2m*). Any person against whom a reasonable suspicion exists that he has been guilty of an offence under this Act may be arrested in any place, either upon land or water, by any officer of Customs or other person duly employed for the prevention of smuggling.—[Sea Customs Act, 1878—Act VIII of 1878, s. 173.]

Persons reasonably suspected may be arrested.

548 (*2n*). Every person arrested on the ground that he has been guilty of an offence under this Act shall forthwith be taken before the nearest magistrate or Customs collector.—[Sea Customs Act, 1878—Act VIII of 1878, s. 174.]

Persons arrested to be taken before nearest magistrate or Customs collector.

548 (*2o*). When any such person is taken before a magistrate, such magistrate may, if he thinks fit, either commit him to gaol or order him to be kept in the custody of the Police for such time as is necessary to enable such magistrate to communicate with the proper officers of Customs:

Persons taken before magistrate may be detained or admitted to bail.

Provided that any person so arrested, committed or kept shall be released on giving security to the satisfaction of the magistrate to appear at such time and place as such magistrate appoints in this behalf.—[Sea Customs Act, 1878—Act VIII of 1878, s. 175.]

548 (*2p*). If any person liable to be arrested under this Act is not arrested at the time of committing the offence for which he is so liable, or after arrest

Persons escaping may be pursued and arrested.

Miscellaneous (Sea Customs.)

makes his escape, he may at any time afterwards be arrested and taken before a magistrate, to be dealt with as if he had been arrested at the time of committing such offence.—[Sea Customs Act, 1878—Act VIII of 1878, s. 176.]

When seizure or arrest is made, reason in writing to be given.

548 (*2q*). When anything is seized, or any person is arrested, under this Act, the officer or other person making such seizure or arrest shall, on demand of the person in charge of the thing so seized, or of the person so arrested, give him a statement in writing of the reason for such seizure or arrest.—[Sea Customs Act, 1878—Act VIII of 1878, s. 181.]

Penalty under Act not to interfere with punishment under other law.

548 (*2r*). The award of any confiscation, penalty, or increased rate of duty under this Act by an officer of Customs shall not prevent the infliction of any punishment to which the person affected thereby is liable under any other law.—[Sea Customs Act, 1878—Act VIII of 1878, s. 186.]

Rules to be notified.

548 (*2s*). All rules made under this Act shall be notified in the official Gazette, and shall thereupon have the force of law.

All such rules for the time being in force shall be collected, arranged and published at intervals not exceeding two years, and shall be sold to the public at a reasonable price.—[Sea Customs Act, 1878—Act VIII of 1878, s. 204.]

Cancellation of notifications.

548 (*2t*). Any notification made by any authority under powers conferred by this Act may be cancelled in like manner by the same authority.—[Sea Customs Act, 1878—Act VIII of 1878, s. 205.]

Saving of Calcutta Port Commissioners and Bombay Port Trust Acts.

548 (*2u*). Nothing in this Act shall affect any law for the time being in force relating to the Commissioners for making improvements in the Port of Calcutta or the Trustees of the Port of Bombay respectively.—[Sea Customs Act, 1878—Act VIII of 1878, s. 207.]

Customs Duties and Regulations as regards Prize of War.

(Customs Duties on Prizes.)

Prize ships and goods liable to Customs duties and forfeiture, as if imported.

548 (*2v*). All ships and goods taken as prize and brought into a port of the United Kingdom shall be liable to and be charged with the same rates and charges and duties of Customs as under any Act relating to the Customs may be chargeable on other ships and goods of the like description; and

All goods brought in as prize which would on the voluntary importation thereof be liable to forfeiture or subject to any restriction under the laws relating to the Customs shall be deemed to be so liable and subject, unless the Commissioners of Customs see fit to authorise the sale or delivery thereof for home use or exportation, unconditionally, or subject to such conditions and regulations as they may direct.—[Naval Prize Act, 1864, 27 & 28 Vic., c. 25, s. 47.]

Regulations of Customs to be observed as to prize ships.

548 (*2w*). Where any ship or goods taken as prize is or are brought into a port of the United Kingdom, the master or other person in charge or command of the ship which has been taken or in which the goods are brought shall on arrival at such port bring to at the proper place of discharge, and shall, when required by any officer of Customs, deliver an account in writing under his hand concerning such ship and goods, giving such particulars relat-

ing thereto as may be in his power, and shall truly answer all questions concerning such ship or goods asked by any such officer, and in default shall forfeit a sum not exceeding one hundred pounds, such forfeiture to be enforced as forfeitures for offences against the laws relating to the Customs are enforced; and every such ship shall be liable to such searches as other ships are liable to; and the officers of the Customs may freely go on board such ship and bring to the Queen's warehouse any goods on board the same, subject, nevertheless, to such regulations in respect of ships of war belonging to Her Majesty as shall from time to time be issued by the Commissioners of Her Majesty's Treasury.—[Naval Prize Act, 1864, 27 & 28 Vic., c. 25, s. 48.]

Miscellaneous (See Customs.)

Re-importation of Goods into British Territory.

(Re-importation of Goods.)

548 (2x.) Whoever desires to re-import into British territory goods previously exported from Rangoon to the territories of the King of Ava must obtain from the political agent a certificate in the form set forth in the schedule hereto annexed.

Certificate to be obtained before re-importation.

Such certificate shall be made out in duplicate: the original shall be handed to the owner or shipper of the goods, and the duplicate shall be forwarded to the master of the vessel in which the goods are intended to be shipped.

SCHEDULE.

CERTIFICATE.

Mr. or Messrs. _____ having declared his or their intention to re-export from _____ to _____ the undermentioned goods originally cleared at Rangoon good under Act IV of 1863,[1] I grant permission for the said goods to be shipped on board the Steamer/Ship _____, and request that the master will deliver the said goods to the Collector of Customs at _____.—

Marks and Numbers.	Description of packages.	Number of packages.	Contents of such packages.	When imported into.

(Sd.) A. B.,
Political Agent.

[Re-importation of Goods into British Territory—Act XXIII of 1872, s. 2.]

[1] Act IV of 1863, an Act to give effect to certain provisions of a treaty between the Governor General and the King of Burmah.

Miscellaneous. (Re-importation of Goods.)

Goods to be delivered to collector of Customs by master of vessel.

548 (2*y*.) All goods protected by such certificate shall be delivered by the master of the vessel in which they are shipped to the collector of Customs at Thayetmyo or Rangoon, or at any other station in British territory on the Irrawaddy as may be directed in the certificate aforesaid;

and such collector shall retain the goods until the difference between the duty of one *per centum ad valorem* and the duty which they would have been liable to pay if cleared for home-consumption when originally imported by sea is paid to him, together with any incidental expenses incurred in removing and storing the same.—[Re-importation of Goods into British Territory—Act XXIII of 1872, s. 3.]

Penalty on failing to deliver to collector goods protected by certificate.

548 (2*z*.) Any master of a vessel failing to deliver to the collector, as provided in section three, any goods protected by a political agent's certificate, shall be liable to a penalty not exceeding one thousand rupees.

Such penalty shall be adjudged after a summary proceeding by any collector of Customs; but his adjudication shall be subject to appeal to the Commissioner of the division.—[Re-importation of Goods into British Territory—Act XXIII of 1872, s. 5.]

APPENDIX A.

168*b*.—(1) After the first day of August one thousand eight hundred and eighty-one, any document authorising or promising, or purporting to authorise or promise, the future payment of money on account of a seaman's wages conditionally on his going to sea from any port in the United Kingdom, and made before those wages have been earned, shall be void. Conditional advance notes illegal.

(2) No money paid in satisfaction or in respect of any such document shall be deducted from a seaman's wages, and no person shall have any right of action, suit, or set-off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

(3) Nothing in this section shall affect any allotment note made under the Merchant Shipping Act, 1854.—[Merchant Seamen's (Payment of Wages and Rating) Act, 1880, 43 & 44 Vic., c. 16, s. 2.]

266*a*.—Any Naval Court summoned under the provisions of the Merchant Shipping Act, 1854, to hear any complaint touching the conduct of the master or any of the crew of any ship shall, in addition to the powers given to it by the said Act, have power to try the said master or any of the said crew for any offences against the Merchant Shipping Act, 1854, in respect of which two justices would, if the case were tried in the United Kingdom, have power to convict summarily, and by order duly made to inflict the same punishments for such offences which two justices might in the case aforesaid inflict upon summary conviction: Provided that, in cases where an offender is sentenced to imprisonment, the sentence shall be confirmed in writing by the senior naval or Consular officer present at the place where the Court is held, and the place of imprisonment, whether on land or on board ship, shall be approved by him as a proper place for the purpose; and copies of all sentences made by any Naval Court summoned to hear any such complaint as aforesaid shall be sent to the commander-in-chief or senior naval officer of the station.—[The Merchant Shipping Act Amendment Act, 1855, 18 & 19 Vic., c. 91, s. 18.] Additional powers of Naval Courts.

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